

9.406-2 Causes for debarment.

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(b) * * *

(2) A contractor, based on a determination by the Secretary of Homeland Security or the Attorney General of the United States, that the contractor is not in compliance with Immigration and Nationality Act employment provisions (see Executive Order 12989, as amended by Executive Order 13286). Such determination is not reviewable in the debarment proceedings.

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■ 3. Amend section 9.406-4 by revising the third sentence of paragraph (b) to read as follows:

9.406-4 Period of debarment.

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(b) * * * Debarments under 9.406-2(b)(2) may be extended for additional periods of one year if the Secretary of Homeland Security or the Attorney General determines that the contractor continues to be in violation of the employment provisions of the Immigration and Nationality Act. * * *

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DEPARTMENT OF DEFENSE**GENERAL SERVICES
ADMINISTRATION****NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION****48 CFR Parts 8, 38, and 53**

[FAC 2001-24; FAR Case 1999-603; Item V]

RIN 9000-AJ63

**Federal Acquisition Regulation;
Federal Supply Schedules Services
and Blanket Purchase Agreements
(BPAs)**

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to incorporate policies for services and to strengthen the procedures for establishing Blanket Purchase Agreements under the Federal Supply Schedules.

DATES: *Effective Date:* July 19, 2004.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat at (202) 501-4755 for information pertaining to status or publication schedules. For clarification of content, contact Ms. Linda Nelson, Procurement Analyst, at (202) 501-1900. Please cite FAC 2001-24, FAR case 1999-603. The TTY Federal Relay Number for further information is 1-800-877-8973.

SUPPLEMENTARY INFORMATION:**A. Background**

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 68 FR 19294, April 18, 2003, with request for comments. Thirty-four respondents submitted public comments. A discussion of the comments is provided below. The differences between the proposed rule and final rule are addressed in the Councils' response to comments 1 through 9. General changes made to FAR Subpart 8.4 by this rulemaking are provided in the list below. Of particular note, the rule—

- Adds language to make it clear that the contracting officer placing an order on another agency's behalf is responsible for applying that agency's regulatory and statutory requirements; and that the requiring activity is required to provide information on the applicable regulatory and statutory requirements to the contracting officer;
- Adds new coverage on use of statements of work when acquiring services from the schedules;
- Requires that when an agency awards a task order requiring a statement of work, that if the award is based on other than price (best value), the contracting officer shall provide a brief explanation of the basis for the award decision to any unsuccessful contractor that requests such information;

- Refines guidance regarding the use of Governmentwide BPAs;
- Adds language to require the ordering activity to document the results of its BPA review; and
- Reinforces documentation requirements generally and adds new guidance addressing the documentation of orders for services and sole source orders.

In addition, the rule also—

- Adds a definitions section;
- Adds information regarding the Department of Veterans Affairs delegated authority to establish medical supply schedules;

- Adds language to clarify the differences between an Authorized Federal Supply Schedules (FSS) Pricelist and a FSS publication;

- Adds additional information regarding e-Buy, GSA's electronic quote system for the schedules program;

- Clarifies that competition shall not be sought outside the Federal Supply Schedules;

- Adds language stating that the performance period of Blanket Purchase Agreements (BPA) established under the schedules program may cross option periods on the base contracts;

- Adds language that encourages or reminds agencies that they can seek a price reduction at any time, not just when an order exceeds the maximum order threshold;

- Adds additional language to allow for consideration of socio-economic status when identifying the potential competitors for an order;

- Adds new coverage to allow agencies to make payment for oral or written orders by any authorized means, including the Governmentwide commercial purchase card;

- Reserves the ordering procedures for Mandatory Use Schedules section;

- Clarifies the procedures for termination for cause and convenience; and

- Reorganizes and revises the subpart text for ease of use.

**B. Summary and Discussion of
Significant Public Comments**

1. *Comment: Ordering offices need not seek further competition.* Several respondents stated that the phrase "Ordering offices shall not seek further competition" is confusing or misleading. In addition, the requirement that agencies need not seek further competition, synopsis the requirement, or consider small business programs when placing orders or issuing Blanket Purchase Agreements under the schedule ordering procedures did not seem fair.

Councils' response: Partially concur. The Councils determined that although the language was clear, an additional explanation would be added. The Councils clarified the language at 8.404(a) to indicate that ordering activities need not seek competition outside of the Federal Supply Schedules. Agencies must follow the procedures of Subpart 8.4 to ensure compliance with the requirement for full and open competition as implemented under the Multiple Award Schedules program.

2. *Comment: Use of the term "appropriate number."* Concern was raised regarding the use of the term "appropriate number" at FAR 8.404-1(d)(1) and FAR 8.404-2(c)(2)(ii) of the proposed rule. The term "appropriate number" pertains to the number of

contractors to be considered or contacted as part of the order evaluation and placement process. In general, the respondents were concerned that the language was too vague and did not provide sufficient guidance as to the number of contractors that should be considered or contacted. Further, there was a recommendation that “an appropriate number” be changed to state a specific number or delete the requirement.

Councils’ response: The Councils partially concur. The rule identifies factors that ordering activities might consider in determining the appropriate number of additional schedule contractors to consider. The intent is to leave it to the discretion of the contracting officer to determine the number of additional contractors to be considered or contacted. The recommendation that a specific number of contractors be identified in place of an “appropriate number” would unnecessarily limit the discretion of the contracting officer. A final note, proposed rule FAR 8.404–1(d)(1) is renumbered in the final rule as FAR 8.405–1(d)(1). Proposed rule FAR 8.404–2(c)(2)(ii) is renumbered FAR 8.405–2(c)(3)(i) in the final rule.

3. Comment: Price reductions. A respondent commented that the ordering procedures should be revised to remind agencies that price reductions could be requested at any time for any size order.

Councils’ response: Concur. Language was added to the final rule at FAR 8.404(d) reminding agencies that they can ask for price reductions prior to placing an order.

4. Comment: Quality Assurance Surveillance Plans. Several respondents raised concerns regarding the guidance on the use of Quality Assurance Surveillance Plans (QASP). The respondents felt that QASP should be required for all service orders regardless of whether the Statement of Work (SOW) is performance based or not. In addition, another respondent indicated that the proposed rule contains two different sections pertaining to QASP, which is redundant and confusing (see 8.404–2(c)(1) and (c)(4) of the proposed rule).

Councils’ response: The Councils generally agreed with the observation that the mention of QASPs in two different places was, in fact, redundant and confusing. As a result, the rule was revised to include a reference to FAR Subpart 37.6. See FAR 8.405–2(b) of the final rule. With regard to the suggestion that QASPs be required for all service orders regardless of type, the Councils rejected this suggestion. There is no

FAR requirement that QASPs be developed for all service orders. The FAR only requires the development of QASPs for performance-based service orders.

5. Comment: Blanket Purchase Agreements. Several respondents commented that the requirement for each agency to be a signatory when establishing a multi-agency BPA was confusing.

Councils’ response: The Councils agreed that the requirement for each agency using a multi-agency BPA to be a signatory to the BPA was unnecessary. The Councils revised the language to state that the agencies and their requirements must be identified in the BPA. The purpose of this change was two-fold; it eliminated the requirement that each agency actually sign the BPA while at the same time ensuring that the planned potential users of the BPA are reflected by including the user agencies’ estimated requirements. Additionally, including information regarding the various agencies’ estimated requirements fosters better pricing and enhances competition.

The Councils also added a new paragraph at 8.405–3(c) regarding the duration of BPAs. Over time, it has become apparent that additional guidance was needed on the length of BPAs. The underlying schedule contracts include a clause that allows BPAs to extend for the life of the contract. The supplemental guidance in the final rule advises agencies that a BPA should generally run for no longer than five years. However, BPAs may exceed five years to meet agency program requirements. The guidance further provides that a BPA can extend beyond the current term of the contract so long as there are option periods remaining on the underlying contract that, if exercised, will cover the BPA’s period of performance. The rule requires that an ordering activity review the BPA at least once per year.

6. Comment: Small business. Several respondents raised concerns regarding the ability of agencies to focus their consideration of contractors and their competitions for orders on small businesses. In particular, the Federal Office of Small Disadvantaged Business Utilization (OSDBU) Directors Interagency Council commented that the rule of two should apply to schedule orders and that all orders between \$2,500 and \$100,000 be restricted to small businesses. In addition, another respondent stated that the language regarding the applicability of Part 19 of the FAR needed to be clarified. Another respondent suggested that a 10 percent price evaluation advantage be given to

small businesses when agencies are placing orders.

Councils’ response: The Councils do not concur with the comment that the rule of two should apply to orders under the schedules program. Further, the Councils do not concur with the suggestion that all orders under \$100,000 be set-aside for small business. The Councils concluded that these suggestions would fundamentally alter the schedules program in terms of the efficiency and effectiveness of the overall program by increasing the administrative burden on agencies without having demonstrated that the changes would, in fact, benefit small business over the long term. In addition, the basic statutory authority for the program provides that contracts and orders be open to all sources. Creating a set-aside for all such orders would be inconsistent with the program’s basic operating authorities. In addition, the Councils, for the same general reasons, do not agree with the request for a 10 percent evaluation preference for small business.

However, the Councils did examine ways in which the rule could foster even greater small business participation than that which already exists. The Councils added language at FAR 8.405–5(b) that provides that “Ordering activities may consider socioeconomic status when identifying contractor(s) for consideration or competition for award of an order or BPA.” This language provides the flexibility for agencies to conduct their market research focusing on small business concerns and providing them greater opportunity to compete for orders.

The Councils also clarified the language at FAR 8.405–5(a) regarding the applicability of FAR Part 19 and added language that reminds agencies that when reporting an order for purposes of credit towards their socioeconomic goals, the ordering agency may only take credit if the awardee meets the size standard that corresponds to the work performed.

7. Comments: Documentation requirements. Several respondents indicated that the documentation requirements at FAR 8.404–6 of the proposed rule were confusing.

Councils’ response: The Councils agreed with these comments and revised the rule accordingly. The Councils moved the documentation for services requiring a statement of work from the end of the section to the beginning consolidating minimum documentation requirements for services under FAR 8.405–7(a) and (b) of the final rule. In addition, the sole source document

requirements were placed in a separate heading at FAR 8.405–6 of the final rule. A final note, proposed rule FAR 8.404–6 is renumbered in the final rule as FAR 8.405–7.

8. *Comment: Inspection and acceptance.* One respondent raised significant concerns regarding the inspection and acceptance guidance at FAR 8.405–3 of the proposed rule. The respondent commented that the new provisions regarding the inspection rights of the Government for services were overly broad and unduly burdensome. The provisions provided in part that the Government had the right to inspect services performed at any time and any place, including the contractor's facilities. The respondent indicated that inspection and acceptance are typically negotiated based on the type of service to be provided and are not left so open-ended in the Government's favor.

Councils' response: The Councils essentially agreed with the respondent's observations. As a result, the Councils revised the final rule at FAR 8.406–2(b) to state that inspection shall be in accordance with the contract and order terms. The order terms can be negotiated as part of a Quality Assurance Surveillance Plan for an order.

9. *Comment: Remedies for inadequate performance.* One respondent raised several concerns regarding the remedies for inadequate performance guidance included in the proposed rule. In cases where a contractor fails to correct earlier nonperformance of an order, FAR 8.405–4(c) of the proposed rule provided, in part, that the contracting office could reduce the order price to reflect the contractor nonperformance. The respondent commented that FAR 8.405–4(c) of the proposed rule would inappropriately grant agencies the unilateral right to reduce the order price without any mechanisms by which the contracting officer determines the amount of any such price reduction or any mechanism by which the contractor could challenge such a price reduction.

Councils' response: The Councils agreed with this comment. The Councils replaced the term "inadequate performance" in the heading with "nonconformance" and revised the rule at FAR 8.406–3(a) to state that the ordering activity shall take appropriate action for nonconformance in accordance with the inspection and acceptance clause of the contract as supplemented by the order.

10. *Comment: Outline factors to consider for services.* Section 8.404–1(c) outlines factors to consider when comparing schedule contractors, which

mainly apply to supplies. Recommend that a factor be added for services.

Councils' response: Do not concur. The language of section 8.405–1(c) is sufficient for purposes of a best value evaluation of basic services such as repair, maintenance, and installation. Section 8.405–1 lists various factors as examples of what may be considered in determining best value. The list is written to be inclusive and not exclusive. Therefore, agencies have the discretion to consider any other factor that may be important to their best value decision. In addition, the ordering procedures for services requiring a statement of work require that agencies include the evaluation criteria for selection in the Request for Quotation. Under these ordering procedures, the agencies have the discretion to develop the evaluation criteria that will best meet their needs in determining best value for their requirements.

11. *Comment: Other direct costs.* One respondent commented that the ordering procedures should include guidance regarding the acquisition and evaluation of other direct costs as part of an order.

Councils' response: The Councils agree that this is an area that may need additional guidance. However, GSA is currently reviewing the structure for other direct costs under its contracts and will be developing additional training and guidance in this area for agencies. Upon completion of this review, the Councils may revisit the issue as a follow-up to the final rule.

12. *Comment: Time-and-materials and labor-hour orders.* Several respondents raised concerns regarding the lack of clear guidance on the use of time-and-materials or labor-hour orders. The general comment was that the rule failed to fully address whether an order could be issued on a time-and-material or labor-hour basis and the circumstances when the use of such order types was appropriate. In addition, one respondent raised a concern regarding a potential conflict between the FAR and GSA ordering procedures regarding the type of contract that may be used for commercial items. Yet another respondent commented that time-and-materials contracts should not be used unless impossible to estimate accurately the extent or duration of the work or anticipate costs reasonably when placing the order.

Councils' response: The Councils agree with the comments that this area requires additional guidance. Currently, the Councils are working on a number of FAR cases to implement various sections of the Services Acquisition

Reform Act of 2003 (Title XIV of Public Law 108–136). The rule resulting from one of these FAR cases will implement Section 1432 (Authorization of additional commercial contracts types), which addresses the use of time-and-material and labor-hour contracts for commercial services. When Section 1432 has been implemented, the Councils will address the time-and-materials/labor-hour issue as it pertains to the Multiple Award Schedules Program as a follow-up to the final rule.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, applies to this final rule. The Councils prepared a Final Regulatory Flexibility Analysis (FRFA), and it reads as follows:

This Final Regulatory Flexibility Analysis has been prepared in accordance with 5 U.S.C. 604.

1. Statement of need for, and objectives of, the rule. The Multiple Award Schedules (MAS) program, directed and managed by the General Services Administration (GSA), provides Federal agencies with a simplified process for obtaining commercial supplies and services at prices associated with volume buying. For much of its history, the MAS focused on the sale of products. In recent years, however, GSA has sought to facilitate broad access to service contractors. This general transformation of the schedules program has coincided with a trend in Federal procurement towards acquiring managed solutions from the marketplace. The amount of services acquisition from the MAS has grown steadily as agencies increasingly turn to schedule contractors to meet their needs.

To assist its customers, GSA developed "special ordering procedures" that address the acquisition of services. However, because FAR Subpart 8.4 has remained primarily geared towards products, agencies have been inconsistent in adhering to certain basic acquisition requirements when buying services off the MAS, such as in their use of statements of work, effective pricing of orders, application of competition, and proper documentation of award decisions.

The purpose of the rule is to significantly improve the application of acquisition basics on MAS purchases for services and reinforce sound MAS practices generally. To achieve this result, the rule is amending the Federal Acquisition Regulation to incorporate policies for services and to strengthen the procedures for establishing Blanket Purchase Agreements under the Federal Supply Schedules.

2. Summary of significant issues raised by the public comments in response to the Initial Regulatory Flexibility Analysis (IRFA),

a summary of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments. An Initial Regulatory Flexibility Analysis was not performed because the proposed rule did not have significant economic impact on a substantial number of small entities. Thirty-four respondents submitted public comments in response to the proposed rule. None of the comments received identified or addressed any adverse impact on small businesses.

However, the final rule does make an amendment to the FAR that could foster even greater small business participation than that which already exists. The amendment provides the flexibility for agencies to conduct their market research focusing on small business concerns and providing them greater opportunity to compete for orders.

The rule also reminds agencies that when reporting an order for purposes of credit towards their socio-economic goals, the ordering agency may only take credit if the awardee meets the size standard that corresponds to the work performed. This final rule is intended to be beneficial in expanding small business access to an increased number of orders. We see no negative impact on small businesses.

3. Description of, and an estimate of the number of, small entities to which the rule will apply or an explanation of why no such estimate is available. This rule will apply to all large and small business concerns under the Federal Supply Schedule Program. Although the rule pertains to internal Government procedures, it may increase the number of orders for supplies and services placed by the Government with small business concerns. The net effect of the rule is unknown at this time.

As of fiscal year 2003, according to statistical data maintained by GSA's Federal Supply Service, out of a population of 14,169 national scope schedule contracts, 11,300 Federal Supply Schedule contracts are in effect with small business concerns. Approximately 80 percent of the schedule contractors are small business concerns. In fiscal year 2003, small business schedule contractors received approximately \$9 billion, or 36 percent of total schedule sales. Whereas, in 2002, 8,963 small businesses held contracts out of a population of 11,426 national scope schedule contracts. Small business sales in 2002 were \$7.2 billion, or 34 percent of total schedule sales. The number of small businesses holding Federal Supply Schedules increased 26 percent and sales increased 26.4 percent.

The procedures give small business contractors the opportunity to fairly compete within the broader universe of schedule contractors. These changes ensure that ordering activities have the broad discretion and effective and flexible business solutions to meet agency requirements.

4. Description of the projected reporting, recordkeeping, and other compliance requirements of the rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record. There are no projected reporting, recordkeeping, or other compliance requirements.

5. Description of steps the agency has taken to minimize significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each of the other significant alternatives to the rule considered by the agency was rejected. There are no known significant alternatives that will accomplish the objectives of the rule. No alternatives were proposed during the public comment period. The impact of the rule is unknown at this time. The rule could benefit small business concerns holding schedule contracts by permitting those concerns to compete for awards that offer products and services that meet the needs of the requiring agency.

The FAR Secretariat has submitted a copy of the FRFA to the Chief Counsel for Advocacy of the Small Business Administration.

D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 8, 38, and 53

Government procurement.

Dated: June 10, 2004.

Ralph De Stefano,

Acting Director, Acquisition Policy Division.

■ Therefore, DoD, GSA, and NASA amend 48 CFR parts 8, 38, and 53 as set forth below:

■ 1. The authority citation for 48 CFR parts 8, 38, and 53 is revised to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 8—REQUIRED SOURCES OF SUPPLIES AND SERVICES

■ 2. Revise Subpart 8.4 to read as follows:

Subpart 8.4—Federal Supply Schedules

Sec.

8.401 Definitions.

8.402 General.

8.403 Applicability.

8.404 Use of Federal Supply Schedules.

8.405 Ordering procedures for Federal Supply Schedules.

8.405-1 Ordering procedures for supplies, and services not requiring a statement of work.

8.405-2 Ordering procedures for services requiring a statement of work.

8.405-3 Blanket purchase agreements (BPAs).

8.405-4 Price reductions.

8.405-5 Small business.

8.405-6 Sole source justification and approval.

8.405-7 Documentation.

8.405-8 Payment.

8.406 Ordering activity responsibilities.

8.406-1 Order placement.

8.406-2 Inspection and acceptance.

8.406-3 Remedies for nonconformance.

8.406-4 Termination for cause.

8.406-5 Termination for the Government's convenience.

8.406-6 Disputes.

8.401 Definitions.

As used in this subpart—

Ordering activity means an activity that is authorized to place orders, or establish blanket purchase agreements (BPA), against the General Services Administration's (GSA) Multiple Award Schedule contracts. A list of eligible ordering activities is available at <http://www.gsa.gov/schedules> (click "For Customers Ordering from Schedules" and then "Eligibility to Use GSA Sources").

Multiple Award Schedule (MAS) means contracts awarded by GSA or the Department of Veterans Affairs (VA) for similar or comparable supplies, or services, established with more than one supplier, at varying prices. The primary statutory authority for the MAS program is derived from both Title III of the Administrative Services Act of 1949 (41 U.S.C. 251, *et seq.*) and Title 40 U.S.C., Public Buildings, Property and Works.

Requiring agency means the agency needing the supplies or services.

Schedules e-Library means the on-line source for GSA and VA Federal Supply Schedule contract award information. Schedules e-Library may be accessed at <http://www.gsa.gov/elibrary>.

Special Item Number (SIN) means a group of generically similar (but not identical) supplies or services that are intended to serve the same general purpose or function.

8.402 General.

(a) The Federal Supply Schedule program is also known as the GSA Schedules Program or the Multiple Award Schedule Program. The Federal Supply Schedule program is directed and managed by GSA and provides Federal agencies (see 8.002) with a simplified process for obtaining commercial supplies and services at prices associated with volume buying. Indefinite delivery contracts are awarded to provide supplies and services at stated prices for given periods of time. GSA may delegate certain responsibilities to other agencies (e.g., GSA has delegated authority to the VA to procure medical supplies under the VA Federal Supply Schedules program). Orders issued under the VA

Federal Supply Schedule program are covered by this subpart. Additionally, the Department of Defense (DoD) manages similar systems of schedule-type contracting for military items; however, DoD systems are not covered by this subpart.

(b) GSA schedule contracts require all schedule contractors to publish an "Authorized Federal Supply Schedule Pricelist" (pricelist). The pricelist contains all supplies and services offered by a schedule contractor. In addition, each pricelist contains the pricing and the terms and conditions pertaining to each Special Item Number that is on schedule. The schedule contractor is required to provide one copy of its pricelist to any ordering activity upon request. Also, a copy of the pricelist may be obtained from the Federal Supply Service by submitting a written e-mail request to schedules.infocenter@gsa.gov or by telephone at 1-800-488-3111. This subpart, together with the pricelists, contain necessary information for placing delivery or task orders with schedule contractors. In addition, the GSA schedule contracting office issues Federal Supply Schedules publications that contain a general overview of the Federal Supply Schedule (FSS) program and address pertinent topics. Ordering activities may request copies of schedules publications by contacting the Centralized Mailing List Service through the Internet at <http://www.gsa.gov/cmils>, submitting written e-mail requests to CMLS@gsa.gov; or by completing GSA Form 457, FSS Publications Mailing List Application, and mailing it to the GSA Centralized Mailing List Service (7SM), P.O. Box 6477, Fort Worth, TX 76115. Copies of GSA Form 457 may also be obtained from the above-referenced points of contact.

(c)(1) GSA offers an on-line shopping service called "GSA Advantage!" through which ordering activities may place orders against Schedules. (Ordering activities may also use GSA Advantage! to place orders through GSA's Global Supply System, a GSA wholesale supply source, formerly known as "GSA Stock" or the "Customer Supply Center." FAR Subpart 8.4 is not applicable to orders placed through the GSA Global Supply System.) Ordering activities may access GSA Advantage! through the GSA Federal Supply Service Home Page (<http://www.gsa.gov/fss>) or the GSA Federal Supply Schedule Home Page at <http://www.gsa.gov/schedules>.

(2) GSA Advantage! enables ordering activities to search specific information (i.e., national stock number, part

number, common name), review delivery options, place orders directly with Schedule contractors and pay for orders using the Governmentwide commercial purchase card.

(d) *e-Buy*, GSA's electronic Request for Quotation (RFQ) system, is a part of a suite of on-line tools which complement GSA Advantage!. *E-Buy* allows ordering activities to post requirements, obtain quotes, and issue orders electronically. Ordering activities may access *e-Buy* at <http://www.ebuy.gsa.gov>. For more information or assistance on either GSA Advantage! or *e-Buy*, contact GSA at Internet e-mail address gsa.advantage@gsa.gov.

(e) For more information or assistance regarding the Federal Supply Schedule Program, review the following Web site: <http://www.gsa.gov/schedules>. Additionally, for on-line training courses regarding the Schedules Program, review the following Web site: <http://fsstraining.gsa.gov>.

(f) For administrative convenience, an ordering activity contracting officer may add items not on the Federal Supply Schedule (also referred to as open market items) to a Federal Supply Schedule blanket purchase agreement (BPA) or an individual task or delivery order only if—

(1) All applicable acquisition regulations pertaining to the purchase of the items not on the Federal Supply Schedule have been followed (e.g., publicizing (Part 5), competition requirements (Part 6), acquisition of commercial items (Part 12), contracting methods (Parts 13, 14, and 15), and small business programs (Part 19));

(2) The ordering activity contracting officer has determined the price for the items not on the Federal Supply Schedule is fair and reasonable;

(3) The items are clearly labeled on the order as items not on the Federal Supply Schedule; and

(4) All clauses applicable to items not on the Federal Supply Schedule are included in the order.

8.403 Applicability.

(a) Procedures in this subpart apply to—

(1) Individual orders for supplies or services placed against Federal Supply Schedules contracts; and

(2) BPAs established against Federal Supply Schedule contracts.

(b) GSA may establish special ordering procedures for a particular schedule. In this case, that schedule will specify those special ordering procedures. Unless otherwise noted, special ordering procedures established for a Federal Supply Schedule take

precedence over the procedures in 8.405.

8.404 Use of Federal Supply Schedules.

(a) *General*. Parts 13 (except 13.303–2(c)(3)), 14, 15, and 19 (except for the requirement at 19.202–1(e)(1)(iii)) do not apply to BPAs or orders placed against Federal Supply Schedules contracts (but see 8.405–5). BPAs and orders placed against a MAS, using the procedures in this subpart, are considered to be issued using full and open competition (see 6.102(d)(3)). Therefore, when establishing a BPA (as authorized by 13.303–2(c)(3)), or placing orders under Federal Supply Schedule contracts using the procedures of 8.405, ordering activities shall not seek competition outside of the Federal Supply Schedules or synopses the requirement.

(b) The contracting officer, when placing an order or establishing a BPA, is responsible for applying the regulatory and statutory requirements applicable to the agency for which the order is placed or the BPA is established. The requiring agency shall provide the information on the applicable regulatory and statutory requirements to the contracting officer responsible for placing the order.

(c) *Acquisition planning*. Orders placed under a Federal Supply Schedule contract—

(1) Are not exempt from the development of acquisition plans (see subpart 7.1), and an information technology acquisition strategy (see Part 39);

(2) Must comply with all FAR requirements for a bundled contract when the order meets the definition of "bundled contract" (see 2.101(b)); and

(3) Must, whether placed by the requiring agency, or on behalf of the requiring agency, be consistent with the requiring agency's statutory and regulatory requirements applicable to the acquisition of the supply or service.

(d) *Pricing*. Supplies offered on the schedule are listed at fixed prices. Services offered on the schedule are priced either at hourly rates, or at a fixed price for performance of a specific task (e.g., installation, maintenance, and repair). GSA has already determined the prices of supplies and fixed-price services, and rates for services offered at hourly rates, under schedule contracts to be fair and reasonable. Therefore, ordering activities are not required to make a separate determination of fair and reasonable pricing, except for a price evaluation as required by 8.405–2(d). By placing an order against a schedule contract using the procedures in 8.405, the ordering activity has

concluded that the order represents the best value (as defined in FAR 2.101) and results in the lowest overall cost.

alternative (considering price, special features, administrative costs, etc.) to meet the Government's needs. Although GSA has already negotiated fair and reasonable pricing, ordering activities may seek additional discounts before placing an order (see 8.405-4).

8.405 Ordering procedures for Federal Supply Schedules.

Ordering activities shall use the ordering procedures of this section when placing an order or establishing a BPA for supplies or services. The procedures in this section apply to all schedules.

8.405-1 Ordering procedures for supplies, and services not requiring a statement of work.

(a) Ordering activities shall use the procedures of this subsection when ordering supplies and services that are listed in the schedule contracts at a fixed price for the performance of a specific task, where a statement of work is not required (e.g., installation, maintenance, and repair).

(b) *Orders at or below the micro-purchase threshold.* Ordering activities may place orders at, or below, the micro-purchase threshold with any Federal Supply Schedule contractor that can meet the agency's needs. Although not required to solicit from a specific number of schedule contractors, ordering activities should attempt to distribute orders among contractors.

(c) *Orders exceeding the micro-purchase threshold but not exceeding the maximum order threshold.* Ordering activities shall place orders with the schedule contractor that can provide the supply or service that represents the best value. Before placing an order, an ordering activity shall consider reasonably available information about the supply or service offered under MAS contracts by surveying the GSA Advantage! on-line shopping service, or by reviewing the catalogs or pricelists of at least three schedule contractors (see 8.405-5). In addition to price, when determining best value, the ordering activity may consider, among other factors, the following:

- (1) Past performance.
- (2) Special features of the supply or service required for effective program performance.
- (3) Trade-in considerations.
- (4) Probable life of the item selected as compared with that of a comparable item.
- (5) Warranty considerations.
- (6) Maintenance availability.

(7) Environmental and energy efficiency considerations.

(8) Delivery terms.

(d) *Orders exceeding the maximum order threshold.* Each schedule contract has a maximum order threshold established on a SIN-by-SIN basis. Although a price reduction may be sought at any time, this threshold represents the point where, given the dollar value of the potential order, the ordering activity shall seek a price reduction. In addition to following the procedures in paragraph (c) of this section and before placing an order that exceeds the maximum order threshold or establishing a BPA (see 8.405-3), ordering activities shall—

(1) Review the pricelists of additional schedule contractors (the GSA Advantage! on-line shopping service can be used to facilitate this review);

(2) Based upon the initial evaluation, seek price reductions from the schedule contractor(s) considered to offer the best value (see 8.404(d)); and

(3) After seeking price reductions (see 8.405-4), place the order with the schedule contractor that provides the best value. If further price reductions are not offered, an order may still be placed.

8.405-2 Ordering procedures for services requiring a statement of work.

(a) *General.* Ordering activities shall use the procedures in this subsection when ordering services priced at hourly rates as established by the schedule contracts. The applicable services will be identified in the Federal Supply Schedule publications and the contractor's pricelists.

(b) *Statements of Work (SOWs).* All Statements of Work shall include the work to be performed; location of work; period of performance; deliverable schedule; applicable performance standards; and any special requirements (e.g., security clearances, travel, special knowledge). To the maximum extent practicable, agency requirements shall be performance-based statements (see subpart 37.6).

(c) *Request for Quotation procedures.* The ordering activity must provide the Request for Quotation (RFQ), which includes the statement of work and evaluation criteria (e.g., experience and past performance), to schedule contractors that offer services that will meet the agency's needs. The RFQ may be posted to GSA's electronic RFQ system, e-Buy (see 8.402(d)).

(1) *Orders at, or below, the micro-purchase threshold.* Ordering activities may place orders at, or below, the micro-purchase threshold with any Federal Supply Schedule contractor that

can meet the agency's needs. The ordering activity should attempt to distribute orders among contractors.

(2) *For orders exceeding the micro-purchase threshold, but not exceeding the maximum order threshold.* (i) The ordering activity shall develop a statement of work, in accordance with 8.405-2(b).

(ii) The ordering activity shall provide the RFQ (including the statement of work and evaluation criteria) to at least three schedule contractors that offer services that will meet the agency's needs.

(iii) The ordering activity should request that contractors submit firm-fixed prices to perform the services identified in the statement of work.

(3) *For proposed orders exceeding the maximum order threshold or when establishing a BPA.* In addition to meeting the requirements of 8.405-2(c)(2), the ordering activity shall—

(i) Provide the RFQ (including the statement of work and evaluation criteria) to additional schedule contractors that offer services that will meet the needs of the ordering activity. When determining the appropriate number of additional schedule contractors, the ordering activity may consider, among other factors, the following:

(A) The complexity, scope and estimated value of the requirement.

(B) The market search results.

(ii) Seek price reductions.

(4) The ordering activity shall provide the RFQ (including the statement of work and the evaluation criteria) to any schedule contractor who requests a copy of it.

(d) *Evaluation.* The ordering activity shall evaluate all responses received using the evaluation criteria provided to the schedule contractors. The ordering activity is responsible for considering the level of effort and the mix of labor proposed to perform a specific task being ordered, and for determining that the total price is reasonable. Place the order, or establish the BPA, with the schedule contractor that represents the best value (see 8.404(d)). After award, ordering activities should provide timely notification to unsuccessful offerors. If an unsuccessful offeror requests information on an award that was based on factors other than price alone, a brief explanation of the basis for the award decision shall be provided.

8.405-3 Blanket purchase agreements (BPAs).

(a)(1) *Establishment.* Ordering activities may establish BPAs under any schedule contract to fill repetitive needs for supplies or services. BPAs may be

established with one or more schedule contractors. The number of BPAs to be established is within the discretion of the ordering activity establishing the BPAs and should be based on a strategy that is expected to maximize the effectiveness of the BPA(s). In determining how many BPAs to establish, consider—

- (i) The scope and complexity of the requirement(s);
- (ii) The need to periodically compare multiple technical approaches or prices;
- (iii) The administrative costs of BPAs; and
- (iv) The technical qualifications of the schedule contractor(s).

(2) Establishment of a single BPA, or multiple BPAs, shall be made using the same procedures outlined in 8.405–1 or 8.405–2. BPAs shall address the frequency of ordering, invoicing, discounts, requirements (*e.g.* estimated quantities, work to be performed), delivery locations, and time.

(3) When establishing multiple BPAs, the ordering activity shall specify the procedures for placing orders under the BPAs.

(4) Establishment of a multi-agency BPA against a Federal Supply Schedule contract is permitted if the multi-agency BPA identifies the participating agencies and their estimated requirements at the time the BPA is established.

(b) *Ordering from BPAs*—(1) *Single BPA*. If the ordering activity establishes one BPA, authorized users may place the order directly under the established BPA when the need for the supply or service arises.

(2) *Multiple BPAs*. If the ordering activity establishes multiple BPAs, before placing an order exceeding the micro-purchase threshold, the ordering activity shall—

- (i) Forward the requirement, or statement of work and the evaluation criteria, to an appropriate additional number of BPA holders, as established in the BPA ordering procedures; and
- (ii) Evaluate the responses received, make a best value determination (see 8.404(d)), and place the order with the BPA holder that represents the best value.

(3) *BPAs for hourly rate services*. If the BPA is for hourly rate services, the ordering activity shall develop a statement of work for requirements covered by the BPA. All orders under the BPA shall specify a price for the performance of the tasks identified in the statement of work.

(c) *Duration of BPAs*. BPAs generally should not exceed five years in length, but may do so to meet program requirements. Contractors may be

awarded BPAs that extend beyond the current term of their GSA Schedule contract, so long as there are option periods in their GSA Schedule contract that, if exercised, will cover the BPA's period of performance.

(d) *Review of BPAs*. (1) The ordering activity that established the BPA shall review it at least once a year to determine whether—

- (i) The schedule contract, upon which the BPA was established, is still in effect;

(ii) The BPA still represents the best value (see 8.404(d)); and

(iii) Estimated quantities/amounts have been exceeded and additional price reductions can be obtained.

(2) The ordering activity shall document the results of its review.

8.405–4 Price reductions.

In addition to seeking price reductions before placing an order exceeding the maximum order threshold (see 8.405–1(d)), or in conjunction with the annual BPA review, there may be other reasons to request a price reduction. For example, ordering activities should seek a price reduction when the supply or service is available elsewhere at a lower price, or when establishing a BPA to fill recurring requirements. The potential volume of orders under BPAs, regardless of the size of individual orders, offers the opportunity to secure greater discounts. Schedule contractors are not required to pass on to all schedule users a price reduction extended only to an individual ordering activity for a specific order.

8.405–5 Small business.

(a) Although the mandatory preference programs of Part 19 do not apply, orders placed against schedule contracts may be credited toward the ordering activity's small business goals. For purposes of reporting an order placed with a small business schedule contractor, an ordering agency may only take credit if the awardee meets a size standard that corresponds to the work performed. Ordering activities should rely on the small business representations made by schedule contractors at the contract level.

(b) Ordering activities may consider socio-economic status when identifying contractor(s) for consideration or competition for award of an order or BPA. At a minimum, ordering activities should consider, if available, at least one small business, veteran-owned small business, service disabled veteran-owned small business, HUBZone small business, women-owned small business, or small disadvantaged business

schedule contractor(s). GSA Advantage! and Schedules e-Library at <http://www.gsa.gov/fss> contain information on the small business representations of Schedule contractors.

(c) For orders exceeding the micro-purchase threshold, ordering activities should give preference to the items of small business concerns when two or more items at the same delivered price will satisfy the requirement.

8.405–6 Sole source justification and approval.

Orders placed under Federal Supply Schedules are exempt from the requirements in Part 6. However, ordering activities shall—

(a) Procure sole source requirements under this subpart only if the need to do so is justified in writing and approved at the levels specified in paragraph (b) of this section; and

(b) Prepare sole source justifications using the information at 6.303–2, modified to cite that the acquisition is conducted under the authority of Section 201 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 501).

(1) For proposed orders exceeding the micro-purchase threshold, but not exceeding the simplified acquisition threshold, the ordering activity contracting officer may solicit from one source, if the ordering activity contracting officer determines that the circumstances deem only one source is reasonably available (*e.g.*, urgency, exclusive licensing agreement, industrial mobilization). The contracting officer shall approve the justification unless a higher approval level is established in accordance with agency procedures.

(2) For proposed orders exceeding the simplified acquisition threshold, but not exceeding \$500,000, the ordering activity contracting officer's certification that the justification is accurate and complete to the best of the ordering activity contracting officer's knowledge and belief will serve as approval, unless a higher approval level is established in accordance with agency procedures.

(3) For a proposed order exceeding \$500,000, but not exceeding \$10 million, the competition advocate for the procuring activity, designated pursuant to 6.501, or an official described in 6.304(a)(3) or (a)(4) must approve the justification. This authority is not delegable.

(4) For a proposed order exceeding \$10 million but not exceeding \$50 million, the head of the procuring activity or an official described in 6.304(a)(3)(i) or (ii) shall approve the

justification. This authority is not delegable.

(5) For a proposed order exceeding \$50 million, the official described in 6.304(a)(4) shall approve the justification. This authority is not delegable, except as provided in 6.304(a)(4).

8.405-7 Documentation.

(a) *Minimum documentation.* The ordering activity shall document—

(1) The contracts considered, noting the contractor from which the supply or service was purchased;

(2) A description of the supply or service purchased;

(3) The amount paid; and

(4) If applicable, the circumstances and rationale for restricting consideration of schedule contractors to fewer than that required in 8.405-1 or 8.405-2 (see 8.405-6). Justifications for such restrictions may include—

(i) Only one source is capable of responding due to the unique or specialized nature of the work;

(ii) The new work is a logical follow-on to an existing order provided that the original order was placed in accordance with 8.405-1 or 8.405-2 (excluding orders placed previously under sole source requirements);

(iii) The item is peculiar to one manufacturer. A brand name item, available on various schedule contracts, is an item peculiar to one manufacturer; or

(iv) An urgent and compelling need exists and following the ordering procedures would result in unacceptable delays.

(b) *Additional documentation for services.* In addition to the documentation requirements of paragraph (a) of this section, when acquiring services using the procedures at 8.405-2, the ordering office shall also document—

(1) The evaluation methodology used in selecting the contractor to receive the order;

(2) The rationale for any tradeoffs in making the selection;

(3) The price reasonableness determination required by 8.405-2(d); and

(4) The rationale for using other than—

(i) A firm-fixed price order; or

(ii) A performance-based order.

8.405-8 Payment.

Agencies may make payments for oral or written orders by any authorized means, including the Governmentwide commercial purchase card.

8.406 Ordering activity responsibilities.

8.406-1 Order placement.

Ordering activities may place orders orally (except for services requiring a statement of work (SOW)) or use Optional Form 347, an agency-prescribed form, or an established electronic communications format to order supplies or services from schedule contracts. The ordering activity shall place an order directly with the contractor in accordance with the terms and conditions of the pricelists (see 8.402(b)). Prior to placement of the order, the ordering activity shall ensure that the regulatory and statutory requirements of the requiring agency have been applied. Orders shall include the following information in addition to any information required by the schedule contract:

(a) Complete shipping and billing addresses.

(b) Contract number and date.

(c) Agency order number.

(d) F.o.b. delivery point; *i.e.*, origin or destination.

(e) Discount terms.

(f) Delivery time or period of performance.

(g) Special item number or national stock number.

(h) A statement of work for services, when required, or a brief, complete description of each item (when ordering by model number, features and options such as color, finish, and electrical characteristics, if available, must be specified).

(i) Quantity and any variation in quantity.

(j) Number of units.

(k) Unit price.

(l) Total price of order.

(m) Points of inspection and acceptance.

(n) Other pertinent data; *e.g.*, delivery instructions or receiving hours and size-of-truck limitation.

(o) Marking requirements.

(p) Level of preservation, packaging, and packing.

8.406-2 Inspection and acceptance.

(a) *Supplies.* (1) Consignees shall inspect supplies at destination except when—

(i) The schedule contract indicates that mandatory source inspection is required by the schedule contracting agency; or

(ii) A schedule item is covered by a product description, and the ordering activity determines that the schedule contracting agency's inspection assistance is needed (based on the ordering volume, the complexity of the supplies, or the past performance of the supplier).

(2) When the schedule contracting agency performs the inspection, the ordering activity will provide two copies of the order specifying source inspection to the schedule contracting agency. The schedule contracting agency will notify the ordering activity of acceptance or rejection of the supplies.

(3) Material inspected at source by the schedule contracting agency, and determined to conform with the product description of the schedule, shall not be reinspected for the same purpose. The consignee shall limit inspection to kind, count, and condition on receipt.

(4) Unless otherwise provided in the schedule contract, acceptance is conclusive, except as regards latent defects, fraud, or such gross mistakes as amount to fraud.

(b) *Services.* The ordering activity has the right to inspect all services in accordance with the contract requirements and as called for by the order. The ordering activity shall perform inspections and tests as specified in the order's quality assurance surveillance plan in a manner that will not unduly delay the work.

8.406-3 Remedies for nonconformance.

(a) If a contractor delivers a supply or service, but it does not conform to the order requirements, the ordering activity shall take appropriate action in accordance with the inspection and acceptance clause of the contract, as supplemented by the order.

(b) If the contractor fails to perform an order, or take appropriate corrective action, the ordering activity may terminate the order for cause or modify the order to establish a new delivery date (after obtaining consideration, as appropriate). Ordering activities shall follow the procedures at 8.406-4 when terminating an order for cause.

8.406-4 Termination for cause.

(a)(1) An ordering activity contracting officer may terminate individual orders for cause. Termination for cause shall comply with FAR 12.403, and may include charging the contractor with excess costs resulting from repurchase.

(2) The schedule contracting office shall be notified of all instances where an ordering activity contracting officer has terminated for cause an individual order to a Federal Supply Schedule contractor, or if fraud is suspected.

(b) If the contractor asserts that the failure was excusable, the ordering activity contracting officer shall follow the procedures at 8.406-6, as appropriate.

(c) If the contractor is charged excess costs, the following apply:

(1) Any repurchase shall be made at as low a price as reasonable, considering the quality required by the Government, delivery requirement, and administrative expenses. Copies of all repurchase orders, except the copy furnished to the contractor or any other commercial concern, shall include the notation:

Repurchase against the account of ____
[insert contractor's name] under Order ____
[insert number] under Contract ____ [insert number].

(2) When excess costs are anticipated, the ordering activity may withhold funds due the contractor as offset security. Ordering activities shall minimize excess costs to be charged against the contractor and collect or set-off any excess costs owed.

(3) If an ordering activity is unable to collect excess repurchase costs, it shall notify the schedule contracting office after final payment to the contractor.

(i) The notice shall include the following information about the terminated order:

(A) Name and address of the contractor.

(B) Schedule, contract, and order number.

(C) National stock or special item number(s), and a brief description of the item(s).

(D) Cost of schedule items involved.

(E) Excess costs to be collected.

(F) Other pertinent data.

(ii) The notice shall also include the following information about the purchase contract:

(A) Name and address of the contractor.

(B) Item repurchase cost.

(C) Repurchase order number and date of payment.

(D) Contract number, if any.

(E) Other pertinent data.

(d) Only the schedule contracting officer may modify the contract to terminate for cause any, or all, supplies or services covered by the schedule contract. If the schedule contracting officer has terminated any supplies or services covered by the schedule contract, no further orders may be placed for those items. Orders placed prior to termination for cause shall be fulfilled by the contractor, unless terminated for the convenience of the Government by the ordering activity contracting officer.

8.406-5 Termination for the Government's convenience.

(a) An ordering activity contracting officer may terminate individual orders for the Government's convenience. Terminations for the Government's convenience shall comply with FAR 12.403.

(b) Before terminating orders for the Government's convenience, the ordering activity contracting officer shall endeavor to enter into a "no cost" settlement agreement with the contractor.

(c) Only the schedule contracting officer may modify the schedule contract to terminate any, or all, supplies or services covered by the schedule contract for the Government's convenience.

8.406-6 Disputes.

(a) *Disputes pertaining to the performance of orders under a schedule contract.* (1) Under the Disputes clause of the schedule contract, the ordering activity contracting officer may—

(i) Issue final decisions on disputes arising from performance of the order (but see paragraph (b) of this section); or

(ii) Refer the dispute to the schedule contracting officer.

(2) The ordering activity contracting officer shall notify the schedule contracting officer promptly of any final decision.

(b) *Disputes pertaining to the terms and conditions of schedule contracts.* The ordering activity contracting officer shall refer all disputes that relate to the contract terms and conditions to the schedule contracting officer for resolution under the Disputes clause of the contract and notify the schedule contractor of the referral.

(c) *Appeals.* Contractors may appeal final decisions to either the Board of Contract Appeals servicing the agency that issued the final decision or the U.S. Court of Federal Claims.

(d) *Alternative dispute resolution.* The contracting officer should use the alternative dispute resolution (ADR) procedures, to the maximum extent practicable (see 33.204 and 33.214).

PART 38—FEDERAL SUPPLY SCHEDULE CONTRACTING

■ 3. Revise section 38.000 to read as follows:

38.000 Scope of part.

This part prescribes policies and procedures for contracting for supplies and services under the Federal Supply Schedule program, which is directed and managed by the General Services Administration (see Subpart 8.4, Federal Supply Schedules, for additional information). GSA may delegate certain responsibilities to other agencies (e.g., GSA has delegated authority to the Department of Veterans Affairs (VA) to procure medical supplies under the VA Federal Supply Schedules Program). The VA Federal Supply Schedules

Program is covered by this subpart. Additionally, the Department of Defense manages a similar system of schedule contracting for military items; however, the Department of Defense systems are not a part of the Federal Supply Schedule program.

■ 4. Amend section 38.101 by revising paragraph (a) to read as follows:

38.101 General.

(a) The Federal Supply Schedule program, pursuant to 41 U.S.C. 259(b)(3)(A), provides Federal agencies with a simplified process of acquiring commercial supplies and services in varying quantities while obtaining volume discounts. Indefinite-delivery contracts are awarded using competitive procedures to firms. The firms provide supplies and services at stated prices for given periods of time, for delivery within a stated geographic area such as the 48 contiguous states, the District of Columbia, Alaska, Hawaii, and overseas. The schedule contracting office issues Federal Supply Schedule publications that contain a general overview of the Federal Supply Schedule (FSS) program and address pertinent topics.

* * * * *

PART 53—FORMS

53.213 [Amended]

■ 5. Amend section 53.213 in paragraph (f)(4) by removing "8.405-2" and adding "8.406-1" in its place.

[FR Doc. 04-13622 Filed 6-17-04; 8:45 am]

BILLING CODE 6820-EP-P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 22, 25, and 52

[FAC 2001-24; FAR Case 2004-008; Item VI]

RIN 9000-AJ96

Federal Acquisition Regulation; Designated Countries—New European Communities Member States

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

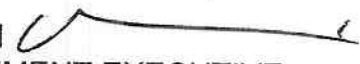
SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council



JUN 6 2005

GSA Acquisition Letter V-05-12

MEMORANDUM FOR ALL GSA CONTRACTING ACTIVITIES

FROM: DAVID A. DRABKIN 
SENIOR PROCUREMENT EXECUTIVE
OFFICE OF THE CHIEF ACQUISITION OFFICER

SUBJECT: Socio-Economic Programs Under Schedules

1. Purpose. This Acquisition Letter provides guidance to ordering activities on limiting consideration to small businesses on orders placed under the Federal Supply Schedules Program to achieve agency socio-economic goals.

2. Background. The strength and viability of small businesses are vitally important to our nation's economy. A successful and strong small business community is integral to job creation, community empowerment and economic revitalization. The General Services Administration and the Small Business Administration (SBA), strongly support the participation of small business concerns in the Federal Supply Schedules Program. GSA through the Federal Supply Schedule program is committed to increasing contracting opportunities for small business and assisting ordering activities in achieving or exceeding their socio-economic goals. In order to support efforts to facilitate this ideal, this guidance provides a tool whereby ordering activities may in their best value determination consider the schedule contractor's socio-economic status.

3. Effective Date. Immediately.

4. Termination Date. One year unless cancelled or extended.

5. Applicability. This Acquisition Letter applies to all GSA contracting activities and other federal agencies placing orders against the Federal Supply Schedule.

6. Policy.

- a) When the order is estimated to exceed the micropurchase threshold, ordering activities ~~seeking to use the multiple award schedules program to~~ achieve their agency small businesses goals, may make socioeconomic status a primary evaluation factor when making a best value determination (see FAR 8.405-1(c)).

b) When a Request For Quote is issued it shall reflect that one of the primary evaluation factors is achieving the agency's socio-economic goals.

c). When accepting work from a requiring agency, the ordering activity must ask and receive confirmation in writing that the requiring activity desires to achieve one of its socio-economic goals and indicate which goal specifically.

d). Place a copy of the requirements document with the applicable confirmation in the contract or order file. The Acquisition Plan should indicate which socio-economic objective is to be achieved through the respective acquisition.



VIA FACSIMILE ONLY

September 14, 2007

Paul Wengert, Esq.
Office of the General Counsel
U.S. Government Accountability Office
441 G Street, N.W.
Washington, D.C. 20548

**Re: Protest of FitNet Purchasing Alliance
B-309911**

Dear Mr. Wengert,

On July 26, 2007, FitNet Purchasing Alliance (FitNet) filed a protest with the U.S. Government Accountability Office (GAO), challenging the U.S. Department of the Army (Army) decision not to set-aside a procurement for 50 wardrobe lockers for small businesses. Pursuant to the text of Solicitation No. SWCSKQ-7177-N035, only contract holders of General Services Administration (GSA) Federal Supply Schedule (FSS) contracts were eligible to participate. Subsequently, on August 13, 2007, the GAO requested that the GSA review and respond to the following issue:

The protester essentially challenges the legal basis for the exemption from FAR Part 19 (and specifically the small business set-aside procedures) for purchases under the Federal Supply Schedule program, as contrary to the Small Business Act, 15 U.S.C. §644(j). This exemption is implemented at FAR §8.404(a) and FAR §8.405-5.

GSA agrees with the Army's assertion [Agency Response, 8/17/07] that, pursuant to Federal Acquisition Regulation (FAR) § 8.404(a), FSS ordering agencies are not required to set-aside *orders* for small businesses because FAR Part 19 is inapplicable to the ordering procedures set forth in FAR Subpart 8.4. Although Subpart 8.4 is exempt from Part 19 applicability, this does not mean that Subpart 8.4 policies are contrary to the Small Business Act.¹

¹ GSA respectfully submits that that GAO is not the proper forum for review of this issue. However, since the issue is a significant one, GSA welcomes the opportunity to provide comments.

First, just as SBA's small business programs have a statutory mandate under 15 U.S.C. § 644, the FSS program (also known as the Multiple Award Schedule (MAS) Program) also has a statutory mandate pursuant to 40 U.S.C. § 501. Both FAR Subpart 8.4 procedures and "procurements conducted in furtherance of 15 U.S.C. § 644" are considered *competitive procedures*, enabling a Federal agency to procure its requirements pursuant to full and open competition. 41 U.S.C. § 259(b)(3) and (b)(4). However, the latter statute also requires that the "Multiple Award Schedule" program *be open to all responsible sources* and result in contracts and orders that provide the lowest overall cost alternative to meet the agency's needs. In attempting to reconcile both mandates, GSA *complies with FAR Part 19 prior to awarding FSS contracts*. In accordance with FAR Part 38, GSA complies with all applicable statutory and regulatory requirements, including those of FAR Part 19, during the acquisition planning stage prior to issuance of a FSS solicitation. Therefore, GSA has set-aside many supplies and services solely for small businesses.²

Where possible, seemingly contradictory statutory provisions should be construed harmoniously so as to give maximum effect to each provision. *Posadas v. National City Bank*, 296 U.S. 497 at 503; 53 Comp. Gen. at 856; B-208593.6, Dec. 22, 1988. By including text in FAR Subpart 8.4 that makes Part 19 inapplicable to FSS orders, the FAR has effectively harmonized these statutory provisions to give maximum effect to the policy mandates of both programs.

Second, FAR Part 19 and FAR Subpart 8.4 were promulgated in accordance with the rulemaking procedures delineated in the *Office of Federal Procurement Policy (OFPP) Act, Pub.L. 93-400, August 30, 1974, as amended*. Prior to issuance, these regulations were subject to public comment. In fact, the Small Business Administration (SBA) has historically been an active participant in the FAR rulemaking process, especially relating to FSS small business policies. FAR § 19.502-1(b) specifically exempts FSS contracts from application of § 19.502-2, *Total small business set-asides*. Since FAR regulations have the force and effect of law (See *Chrysler Corp.*, 441 U.S. at 403-303, n.31), FAR Subpart 8.4 provisions are entitled to the deference given by *Chevron*.

Third, as Army states in its Agency Response, GAO has consistently affirmed the validity of FAR Subpart 8.4 regulations. Neither the protester, nor SBA has provided sufficient rationale for deviating from the principle of *stare decisis*.

FAR Subpart 8.4 is entitled to due deference by GAO.

² Examples of line items set-aside for small business include services under the Financial and Business Solutions (FABS) Schedule include; 520-10, Transportation Audits and 520-14, Audit and Financial Management Training Services. Schedule 71I, Office Furniture and 71II, Household Furniture also contain line items set-aside for small business. Additional information regarding all small business set-asides may be found at *Schedules e-Library* on GSA's website – [gsa.gov](https://www.gsa.gov).

1) BACKGROUND

GSA administers the FSS program under the authority of *40 U.S.C. § 501 and Section 309 of the Federal Property and Administrative Services Act of 1949, as amended. (41 U.S.C. § 259(b))*. The FSS program provides Federal agencies with a simplified process for obtaining commercial supplies and services at prices associated with volume buying. *FAR § 8.402*. Under this program, indefinite-delivery contracts are awarded using competitive procedures to firms. The firms provide supplies and services at stated prices for given periods of time. Federal agencies ordering goods and services from the FSS program must comply with the FAR Subpart 8.4 ordering procedures in order for the procurement to be in compliance with the Competition in Contracting Act (CICA).

The FSS program is uniquely structured to enable small businesses to compete for Federal contracts. While other procurements often require exhaustive, costly, and time consuming bid and proposal efforts, the FSS program affords both industry and the Government an efficient and effective means of competing requirements at the task level. To this end, GSA has implemented FSS policies and procedures that enhance procuring agencies' ability to target small business contractors. Such policies include the use of Contractor Teaming Arrangements (CTA)³ and Blanket Purchase Agreements (BPA) (*FAR § 8.405-3*) that allow small businesses to establish relationships with industry partners to compete for requirements that the small business would not otherwise be capable of performing. Also, the FAR now applies provisions restricting bundling to FSS orders.⁴ Small business contractors received 37.6 percent of the dollars awarded under the FSS program in Fiscal Year 2006. To date, Fiscal Year 2007 small business sales under the FSS program exceed \$13 billion dollars.

The average size of an order under the FSS program is approximately \$50,000, which means that the vast majority of orders are under \$100,000. The FSS program has approximately 13,000 contractors of which approximately 80% are small businesses. As a result, if all orders under \$100,000 have to be set aside for small businesses as long as there are at least two small businesses capable of doing the work, medium and large businesses would effectively be eliminated from the program. Firms such as Dell, IBM, Home Depot, Office Depot, and Northrop-Grumman, just to name a few, would see their business case for participating in the FSS program disappear. Not only would this reduce competition and increase costs to agencies, it would also negatively impact those small businesses who are part of large business subcontracting plans or who participate in teaming arrangements with large and medium sized businesses under the FSS program. The loss of large and medium sized businesses under

³ See additional information regarding CTAs on GSA's website at gsa.gov

⁴ See FAR § 7.204(d) and § 7.107. These sections mitigate the impact on small businesses, both when agencies choose to use orders against IDIQ contracts and when establishing a new contract to which small business set-asides is applicable.

the FSS program would have long term negative consequences for small business. The loss of these important sectors from the FSS program would ultimately reduce the volume of purchasing under the program, thereby reducing overall opportunities for small businesses.

The FSS program has a record of small business support second to none in the federal marketplace. Small businesses have received approximately 80% of the contracts awarded under the GSA Schedules Program.⁵ Small businesses received over 35% of the \$36 billion in sales in FY06. These numbers far exceed the government-wide goal of 23% and have consistently increased over the previous five years. This record is built on creating incentives for using small businesses rather than mandates. Under the FSS program, agencies can get credit towards their socio-economic goals for orders placed with small businesses. Furthermore, FAR § 8.405-5 encourages all agencies to consider at least one small business prior to placing an order under the program. Agencies are advised that they may establish evaluation criteria which give weight to socio-economic factors in their best value analysis. By encouraging agencies to consider small businesses and allowing credit towards socio-economic goals, the Schedules program has successfully used a market-based approach to creating small business opportunity.

The pertinent issue is not *whether* small businesses should be assisted under FSS program, but *how*.

2) FAR SUBPART 8.4 REASONABLY IMPLEMENTS APPLICABLE STATUTES, *THUS*, THIS FAR PROVISION IS ENTITLED TO CHEVRON DEFERENCE.

Chevron USA, Inc. v. Natural Resources Defense Council, Inc., 467 U.S. 837 (1984) provides the standard of review regarding a challenge to the rulemaking process.⁶ If Congress "has directly spoken to the precise question at issue" and its intent is clear, then "the court, as well as the agency, must give effect to [that] unambiguously expressed intent." *Id.* at 842-843. If, however, "the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute". If it is, the Court must defer to the agency's construction. See *Id.* Further, "The FAR regulations are the very type of regulations that the Supreme Court in *Chevron* and later cases has held should be afforded deference", *Brownlee v. DynCorp.*, 349 F.3d 1343, 1354 (Fed. Cir. 2003).

⁵ As an example of the extent of small business participation in the FSS program, ten of the 12 FSS contractors providing wardrobe lockers (the subject of the Army procurement) are small businesses. (SIN 71-309).

⁶ It is recognized, of course, that GAO is not part of the judiciary, however the analogy is appropriate.

Based on the *Chevron* standard, the FAR reasonably exempted FAR Subpart 8.4 orders from the applicability of FAR 19 small business programs.

a) FAR SUBPART 8.4 HARMONIOUSLY CONSTRUES POTENTIALLY CONFLICTING STATUTORY PROVISIONS

As stated previously, 41 USC 259(b), *Competitive Procedures*, applies equally to FAR Part 19 small business set-asides and FAR Subpart 8.4 ordering procedures. The relevant provisions read:

- (b) The term "competitive procedures" means procedures under which an executive agency enters into a contract pursuant to full and open competition. Such term also includes-.....
- (3) the procedures established by the Administrator for the multiple awards program of the General Services Administration if –
 - (A) participation in the program has been open to all responsible sources; and
 - (B) orders and contracts under such procedures result in the lowest overall cost alternative to meet the needs of the Government;
- (4) procurements conducted in furtherance of section 644 of Title 15 as long as responsible business concerns that are entitled to submit offers for such procurements are permitted to compete;.....

Neither 15 U.S.C. § 644 nor 40 U.S.C. § 501 nor 41 U.S.C. § 259(b) provide guidance regarding the implementation of small business programs within the FSS program.⁷ Historically, the FAR has *always* provided for the applicability of FAR Part 19 provisions at the *contract* level. For the FSS program, FAR Part 19 provisions are applicable prior to contract award, as set forth in FAR Part 38.⁸ As will be discussed in greater detail in the following section, the FAR frequently balances the needs of different programs during the rule-making process. This balancing of agency needs is in accordance with the rule of statutory construction that dictates that statutes be construed harmoniously so as to give maximum effect to both wherever possible. *Posadas v. National City Bank*, 296 U.S. 497 at 503; 53 Comp. Gen. at 856; B-208593.6, Dec. 22, 1988. GAO should defer to this FAR construction.

⁷ As an example of the complexity of such issues, see recently-published SBA regulations regarding size status within multiple-award contract vehicles such as the MAS program. *Small Business Size Regulations: Size for Purposes of Government-Wide Acquisition Contracts, Multiple Award Schedule Contracts and Other Long Term Contracts*, 71 FR 66434-01, November 15, 2006.

⁸ It is important to note that FAR § 38.201(e) now provides specific references to the inapplicability of FAR Part 19.

b) THE OFPP ACT REQUIRES FAR OFFICIALS TO RESOLVE DIFFERENCES IN THE DEVELOPMENT OF PROCUREMENT REGULATIONS

The FAR Council is the governing body responsible for maintaining the FAR and is comprised of the Office of Federal Procurement Policy (OFPP), the Department of Defense (DoD), the National Aeronautics and Space Administration (NASA), and GSA. OFPP was established in the Office of Management and Budget in order to provide overall direction of Government-wide procurement policies. (*Pub. L. 93-400, as amended by Pub. L. 96-83, 41 USC 404(a)*). GSA, DoD and NASA are jointly tasked with the preparation, issuance and maintenance of the FAR. (*41 U.S.C. § 405 and 421; FAR § 1.103*). Among its duties as policy overseer, OFPP is responsible for providing leadership in resolving differences among executive agencies in the development of simplified Government-wide procurement regulations. *41 USC § 405(d)*. Also, in carrying out its duties, OFPP is specifically directed to consult with the Small Business Administration. *41 U.S.C. 405(e)(1)*. The FAR Council frequently balances the needs of various programs during the rulemaking process. Since the FAR rulemaking process has already provided for review of the applicability of FAR Part 19 small business programs to the FSS ordering process, SBA concerns regarding FAR Subpart 8.4 provisions have already been considered and resolved.

Maintenance of the FAR is accomplished through the coordinated action of two councils, the Civilian Agency Acquisition Council (CAAC), which GSA chairs, and the Defense Acquisition Regulations Council (DARC). Both the CAAC and the DARC include agency representatives with superior acquisition experience. *FAR §1.201-1*. The OFPP mandates regarding dispute resolution and consultation with SBA are routinely carried out in committee meetings conducted by GSA, and DoD. For example, the CAAC is required to include a representative from SBA. (*FAR §1.201-1(b)(2)*). When a request is received to add to or amend the FAR, a FAR case is opened and reviewed by both the CAAC and the DARC in accordance with the procedures set forth in 1.201-1. Regulatory history shows that the FAR text in question has never materially changed since its first issuance in 1989.⁹

Although the FAR was first published on September 19, 1983, language in FAR 8.404(a) regarding the inapplicability of "small business – small purchase" set-aside procedures" to FSS orders first appeared in 1989. (*54 FR 29280*):

8.404 Using schedules

⁹ Although GAO cites FAR § 8.405-5 as well as § 8.404, GSA's discussion focuses solely upon § 8.404 since § 8.405-5(a) re-iterates the rule that FAR Part 19 preference programs do not apply.

“(a) The planning, solicitation, and award phases of Federal Supply Schedules comply with FAR requirements. Consequently, contracting officers need not seek further competition, synopsise the solicitation or award, determine fair and reasonable pricing, or consider small business – small purchase set aside procedures when placing an order under a Federal Supply Schedule.”

Subsequently, in 1995, the text of 8.404(a) was expanded. (61 FR 39190).

8.404 Using schedules

(a) General. When agency requirements are to be satisfied through the use of Federal Supply Schedules as set forth in this Subpart 8.4, the policies and procedures of FAR Part 13 do not apply. When placing orders under a Federal Supply Schedule, ordering activities need not seek further competition, synopsise the requirement, make a separate determination of fair and reasonable pricing, or consider small business set-asides in accordance with Subpart 19.5.

On March 4, 1999 (64 FR 10536), the text was amended as follows:

8.404 Using schedules

(a) General. When agency requirements are to be satisfied through the use of Federal Supply Schedules as set forth in this subpart, the simplified acquisition procedures of Part 13 and the small business provisions of Part 19 do not apply, except for the provisions of 13.302(c)(3). Orders placed pursuant to a Multiple Award Schedule (MAS) using the procedures in this subpart, are considered to be issued pursuant to full and open competition (see 6.102(d)(3)). Therefore, when placing orders under Federal Supply Schedules, ordering offices need not seek further competition, synopsise the requirement, make a separate determination of fair and reasonable pricing or consider small business programs.

The last relevant changes to this text occurred in 2002 (76 FR 56119).

8.404 Using schedules

(a) General. (1) Parts 13 and Part 19 do not apply to orders placed against Federal Supply Schedules, except for the provisions at 13.302-2(c)(3)...

(i) Ordering offices need not seek further competition, synopsise the requirement, make a separate determination of fair and reasonable pricing or consider small business programs.

The regulatory history makes clear that not only has the FAR Council considered the applicability of FAR Part 19 business programs to FAR Subpart 8.4 orders on numerous occasions, the Council has, over time, expanded and clarified the language regarding the inapplicability of Part 19. Further, the intent to exempt FSS orders from applicability of small business set-asides is seen not only in Subpart 8.4, but also in FAR Part 19 itself.

Although FAR § 19.502-2 sets forth the requirement of total small business set-asides, the previous section, 19.502-1(b), expressly exempts FSS orders from this requirement. The existence of a FAR Part 19 provision that exempts FAR Subpart 8.4 orders from set-asides is a strong indication of the extensive review given to this issue by the FAR Council and gives credence to fact that the exemption is not contrary to the Small Business Act. The promulgation of a single system of Government-wide procurement regulations frequently requires the balancing of the needs of various programs during the rule-making process. This "balancing act" is anticipated by the OFPP Act and the FAR Council has been given the authority to resolve disputes that arise.

3) THE RULE OF *STARE DECISIS* COMPELS GAO TO UPHOLD THE VALIDITY OF FAR SUBPART 8.4 REGULATIONS¹⁰

Global Analytic Information Technology Services, Inc. (Global) B-290720.3, March 21, 2006, is the most recent GAO decision to address the applicability of small business set-asides to FAR Subpart 8.4 purchases. Although the decision was issued in the context of FAR Subpart 8.4's exemption from application of FAR 19.506 small business set-aside withdrawal requirements, GAO's holding was broadly worded to state that "*the agency was not required to set the requirement aside in the first instance...*". As previously cited by the Army in its Response, the holding in *Global* is not new, rather there are a host of decisions providing precedent in this matter.¹¹ Of particular note is the holding in *Future Solutions, Inc.*, B-293194, Feb. 11, 2004, 2004 CPD P39.

The protester in *Future Solutions, Inc.* argued that the Environmental Protection Agency's should have obtained its requirement for office supplies through a small business set-aside rather than utilizing the FSS program. In denying the protest, GAO's decision states, in relevant part:

"However, no statute or regulation [emphasis added] required the agency to set aside this requirement for small businesses in lieu of purchasing from FSS vendors. Indeed, FAR § 8.404(a)(1) as it read when the solicitation for this BPA was issued, provided in pertinent part: Parts 13 [simplified acquisition procedures] and 19 [small business programs] do not apply to orders placed against [FSS].... This provision obviates the need for agencies to apply small

¹⁰ GSA again notes that in following its own precedents, GAO follows the legal principle of *stare decisis*. Thus, it has relevance to this GAO proceeding.

¹¹ See also *Millennium Data Systems, Inc.*, B-292357.2, March 12, 2004.

business set-aside procedures, where, as here, they are purchasing from the FSS."

Even though the procurement at issue in *Future Solutions* exceeded \$100,000, there is no reason to conclude that the rationale for GAO's decision is inapplicable to procurements valued between the micro-purchase threshold and \$100,000 (see 19.502-2). As the excerpt from the decision makes clear, FAR 8.404(a)(1) exempted FSS orders from *all portions* of Part 19. GAO's decision, therefore, applies to all FAR Part 19 small business set-asides, regardless of value. No other reasonable interpretation is possible.

GAO has previously opined that a determination of law should be followed unless it has been overruled by a subsequent decision, statute or regulation. *Manufacturing Technology Solutions – Request for Reconsideration*, B-237415, B-237415.2, May 4, 1990, 90-1 CPD P 447. Since FAR Subpart 8.4 has the force and effect of law and no regulatory change has occurred since GAO's decision in *Global*, the holding in *Global* should be binding precedent.

4) CONCLUSION

As stated above, the FAR reasonably exempted Subpart 8.4 purchases from the applicability of Part 19 small business programs. In accordance with the OFPP Act, the FAR has historically provided for application of Part 19 small business programs to FSS contracts, and *not orders*, through procedures that balance the program needs of SBA and GSA. FAR regulations are the very type of regulations that should be given deference. Thus, the protester's challenge to the legal basis for the exemption has no merit.

GSA appreciates the opportunity to provide comments on this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Thedlus L. Thompson". The signature is fluid and cursive, with a large initial "T".

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STATEMENT OF
MICHAEL J. RIGAS
DEPUTY ASSOCIATE ADMINISTRATOR
OFFICE OF SMALL BUSINESS UTILIZATION
U.S. GENERAL SERVICES ADMINISTRATION
BEFORE THE
COMITTEE ON SMALL BUSINESS
AND ENTREPRENEURSHIP
UNITED STATES SENATE
OCTOBER 29, 2007



Good afternoon, thank you for the opportunity to appear before you today to discuss access to Federal contracts for small businesses. I am Michael Rigas, Deputy Associate Administrator for Small Business Utilization at the General Services Administration (GSA), and I am pleased to be here this afternoon.

I am also happy to be here today at Bowie State University, because it is the home of the Procurement Acquisition Center of Excellence. In September 2004, GSA completed a competitive out-sourcing of the Federal Acquisition Institute in which we awarded a contract to SRA whose partner, Bowie State University, is a Historically Black University. The Procurement Acquisition Center of Excellence was established to support the Federal Acquisition Institute's goals and initiatives of sustaining procurement and acquisition professionalism, integrity and growth across the Federal workforce.

As the premier acquisition agency of the Federal Government, GSA's mission is to help Federal agencies better serve the public by offering, at best value, superior workplaces, expert solutions, acquisition services, and management policies.

Within GSA, the Office of Small Business Utilization works to ensure that small businesses have ample opportunities to compete in GSA procurements. We know that small businesses are the engine of our national economy and that they bring to the market new and innovative solutions to Government challenges; and a successful and strong small business community is integral to job creation, community empowerment and economic revitalization.

GSA works hard so that small, small disadvantaged, women-owned, Hubzone, veteran-owned, and service-disabled veteran-owned small businesses have every opportunity to participate in the Federal procurement process. GSA has significantly increased its spending with small businesses, and as an agency, we actually exceed the goals Congress has set.

The Small Business Act established an annual goal of awarding 23 percent of prime contract dollars goes to small businesses. At GSA, over 32 percent of all prime contract procurement dollars spent goes to small business. That impressive result is nearly 40 percent higher than the statutory goal of 23 percent. From FY 2005 to FY 2006, GSA increased its small business spending from \$1.5 billion to \$1.7 billion, an increase of over 13 percent. We are proud that we have surpassed the goals established by the Small Business Act.

But the story of GSA's support for small business doesn't end with our direct GSA contracting. GSA has a strong record of supporting small business contracting throughout the Government through the GSA Schedules Program and Government-wide Acquisition Contracts. Over 80 percent of the companies on GSA Schedules are small businesses. In FY 2005, through the GSA's Schedules program, Federal agencies awarded over \$12 billion in schedule orders to small business. That amount increased to over \$13 billion for FY 2006, which is approximately 37% of all prime contracting Schedules spending government wide going to small business.

It gives me great pleasure to tell you that we also recently awarded our GSA IT Infrastructure Technology Global Operations (GITGO) contract to an 8(a) Service Disabled Veteran Owned Small Business headquartered in the State of Maryland. We determined this opportunity, valued at over \$200 million dollars, could be competed amongst, and awarded to, small business, if those businesses were given the chance. And now an 8(a) Service Disabled Veteran Owned Small Business is providing alignment of GSA's IT helpdesk operations and supporting the desktops, laptops, and servers of GSA's approximately 15,000 employees and contractors in 500 plus locations around the world, including Puerto Rico, Europe, and Asia.

This success story for small business is a direct result of GSA's policy on bundling, and the commitment of our Administrator, Lurita Doan, to expanding opportunities for small businesses. As one of the few Government agency heads who was an entrepreneur, a former small and minority business owner, and a Federal Government contractor, Ms. Doan is our agency's biggest advocate for small business. She knows from experience that starting a business is hard, that sustaining and growing a business is even harder. She is determined, as the Administrator of GSA, to do whatever is within her power to ensure that doing business with GSA is not one of those hardships.

GSA's guidelines toward contract bundling dictate that any time consolidation of two or more existing contracts that are already performed by, or could be performed by, small business are considered, then the acquisition plan must address contract bundling.

The General Services Administration Acquisition Manual (GSAM) states that contract requirements must be structured to "facilitate competition by and among small business concerns" and that contracting officers must "avoid unnecessary and unjustified bundling that precludes small business participation as contractor."

In order to discourage unnecessary bundling, GSA has issued specific steps that must be taken if an order is considered for bundling. Those steps include, conducting market research to determine if bundling is necessary, assessing the impact on small business, and determining if bundling would have "measurable substantial benefits" to the Government.

As I mentioned earlier, in addition to our agency specific procurement opportunities, GSA manages the Federal Acquisition Service's Multiple Award Schedules Program (Schedules or the Schedules Program). The Schedules Program is a standardized procurement process whereby contracts are established with firms for commercial off the shelf products, services, and solutions. The Schedules Program offers Federal agencies a broad range of products and services from private sector vendors and suppliers at prices that have been negotiated by GSA and meet accepted levels of expertise, performance and best value.

For Federal agencies, this program represents a much more simplified procurement process. Federal agencies turn to these Schedules contracts to fulfill agency

requirements, knowing that they can depend on the quality of the products or services these companies provide. And I am happy to report as noted above that 80 percent of the companies which hold GSA Schedules contracts are small businesses. The Schedules, in short, offer small businesses an expansive avenue of potential work with the Federal Government.

~~The ordering procedures applicable to the Schedules Program make it easier for GSA and other agencies to reach small businesses. Contracting officers ordering via GSA's Schedules may make socioeconomic status a primary evaluation factor when making a best value determination, and, GSA specifically asks our customers about their socioeconomic goals when we conduct an assisted acquisition.~~

Historically, however, it has taken too long to review offers and award contracts under GSA's Multiple Award Schedule Program. Under the leadership of Administrator Doan, GSA has had a number of successes in opening doors to small businesses. During the past year, we have reduced the amount of time it takes for an eligible small company to apply for and receive a GSA Schedules contract from over 157 days to 30 days.

We at GSA pledge to continue to improve, and to keep fighting, to make sure that any small company with a great idea will have a much easier path of obtaining a GSA Schedule than ever before, and to make sure that GSA does a good job of tracking that participation.

Our Office of Small Business Utilization assists small businesses by answering the many questions that are submitted by phone, e-mail, letters, and in person. We consult with most companies over the phone; however, we also conduct one-on-one counseling sessions to help companies in understanding and participating in the Federal procurement process. We also attend procurement conferences to conduct workshops that teach small business owners how to do business with GSA.

GSA has many resources available to help small businesses and provide them with useful information. One such resource is our *Doing Business with GSA* booklet, which is geared toward new and prospective contractors. It explains the process, offers practical advice, and lists helpful websites, including www.gsa.gov/sbu.

Our website also provides links to better help small businesses better understand how to get started with Government contracts. It provides them with points of contact and keeps them informed of upcoming conferences in which we will be participating.

Mr. Chairman, GSA has a strong record of supporting small businesses and small business contracting. We conduct hundreds of outreach events a year across the country for small businesses, to open doors to Federal contracting opportunities to them, and continually work to improve on our already impressive performance record with regards to small business contracting. We share the Administration's view that small businesses are the backbone of our economy. I am sure we share this Committee's view that a

healthy small business community contributes mightily to the health of our national economy.

Mr. Chairman, I thank you for the opportunity to appear before you today. I will be happy to answer any questions you and other members of the Committee may have.

Multiple Award Schedules Desk Reference



GSA Multiple Award Schedules

GSA Multiple Award Schedules (MAS) Program Desk Reference

In your continuing role as a business advisor, we recognize that procurement is not just following rules and regulations. Rather, it is a process of making sound business decisions.

Today, we have new rules and operate in a different kind of environment. Your task now is to implement these new tools and develop efficient acquisition strategies. We have created this manual to assist you in your role.

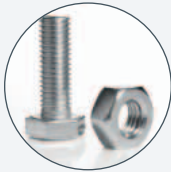
Tips at a Glance ...

As you read through this manual, look for these helpful tips to help you make a “Best Value” selection.



POWER BUYING TIP

These tips are identified by the icon to the left. Read them carefully; they create opportunities for cost savings.



NUTS AND BOLTS TIP

These tips, identified by the icon shown here, are “how-to’s” designed to enhance your buying experience.

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Welcome ...

... to the GSA Multiple Award Schedules (MAS) Desk Reference for Buying Solutions

The General Services Administration (GSA) Multiple Award Schedules (also referred to as GSA Schedules and Federal Supply Schedules) program establishes long-term governmentwide contracts with commercial firms to provide access to more than 12 million commercial supplies and services that can be ordered directly from GSA Schedule contractors or through the *GSA Advantage!*® online shopping and ordering system.

GSA Schedules offer customers direct delivery of millions of state-of-the-art, high-quality commercial supplies and services at volume discount pricing. All customers, even those in remote locations, can conveniently order the latest technology and quality supplies and services, at most-favored customer prices. GSA Schedules also offer the potential benefits of shorter lead times, lower administrative costs and reduced inventories. When using GSA Schedules, ordering activities have the opportunity to meet small business goals while promoting compliance with various environmental and socioeconomic laws and regulations.

www.gsa.gov/schedules

Federal Acquisition Service (FAS) Value Statement

GSA is the only federal agency whose sole purpose is to help the government obtain the goods and services it needs. We at the GSA pledge to put customer service first and promise to provide innovative, best value solutions.

www.gsa.gov/fas

GSA's Commitment to You

At the GSA, we have a continuous commitment to acquisition excellence. We provide policy leadership and expertly managed space, services, products and solutions at “Best Value” to enable federal employees to accomplish their missions.

www.gsa.gov

Buying Members of the GSA Schedules Program

Agencies and other activities are eligible to use GSA sources of services and supplies pursuant to the Federal Property and Administrative Services Act of 1949, or other statutory authority.

An eligible ordering activity is authorized to place orders or establish Blanket Purchase Agreements (BPAs) against GSA Schedule contracts. Refer to the list below of Eligible Activities.

Additional information on “Eligibility to Use GSA Sources” is located at www.gsa.gov/schedules.

Eligibility to Use GSA Sources of Supply and Services

| Eligible Activities include: | Or: |
|---|---|
| An executive agency, including non-appropriated fund activities (41 CFR 101-26) | |
| A federal agency | A cost-reimbursable government contractor authorized in writing by a federal agency to use GSA Schedule contracts (refer to FAR Part 51). |
| A mixed-ownership government corporation | <p>A state and local government entity including any state, local, regional or tribal government or any instrumentality, including any local educational agency or institution of higher education authorized to place orders against Schedule 70 contracts and Special Item Numbers (SINs) for information technology (IT) services/products listed in the Consolidated Schedule contract.</p> <p>www.gsa.gov/cooperativepurchasing</p> <p>State and local governments can support their counterdrug efforts by purchasing equipment from GSA Schedule contractors. For more information, see http://www.gsa.gov/1122program and Section 12 of this document.</p> <p>Under Disaster Recovery Purchasing, state and local government entities may purchase a variety of products and services from contracts awarded under certain Schedules to facilitate recovery from a major disaster, terrorism, or nuclear, biological, chemical, or radiological attack. GSA Schedule contracts annotated with “Disaster Recovery” on <i>Schedules eLibrary</i> may be used by state and local governments to purchase products and services to preposition recovery from a major disaster as well as in the aftermath of an emergency event. For more information, see http://www.gsa.gov/disasterrecovery and Section 12 of this document.</p> |
| The District of Columbia | |
| A tribal government, when authorized under 25 U.S.C. 450j(k) | |
| An activity or organization authorized by statute or regulation to use GSA Schedule contracts as a source of supply | |
| A qualified nonprofit agency as authorized under 40 U.S.C. 502(b) | |

List of Acronyms and Web Sites

Below you'll find acronyms that appear in this manual. We have also included Web site addresses when available.

| | |
|--|--|
| AAC | Activity Address Code |
| AbilityOne | Formerly known as JWOD www.abilityone.gov |
| ADR | Alternative Dispute Resolution |
| A/OPC | Agency/Organization Program Coordinator |
| BOA | Basic Ordering Agreement |
| BPA | Blanket Purchase Agreement www.gsa.gov/bpa |
| Center for Acquisition Excellence | Center for Acquisition Excellence www.gsa.gov/centerforacquisitionexcellence |
| CICA | Competition in Contracting Act |
| CCR | Central Contractor Registration www.ccr.gov |
| CMLS | Centralized Mailing List Service www.gsa.gov/cmls |
| COC | Certificate of Competency |
| CTA | Contractor Teaming Arrangement |
| eBuy | Electronic Request for Quotes System www.gsa.gov/ebuy |
| EPA | Economic Price Adjustment |
| EPLS | Excluded Parties List System www.epls.gov |
| FAR | Federal Acquisition Regulation www.acqnet.gov/far/index.html |
| FAS | Federal Acquisition Service www.gsa.gov/fas |
| FedBizOpps | Federal Business Opportunities www.fedbizopps.gov |
| FPMR | Federal Property Management Regulations |
| GFE | Government Furnished Equipment |
| GFI | Government Furnished Information |
| GFM | Government Furnished Material |
| GPE | Governmentwide Point-of-Entry Federal Business Opportunities www.fedbizopps.gov |
| GSA | General Services Administration www.gsa.gov |
| GSAM | General Services Administration Acquisition Manual www.acquisition.gov/gsam |

| | |
|----------------|--|
| GWAC | Governmentwide Acquisition Contract www.gsa.gov/gwac |
| HUBZone | Historically Underutilized Business Zone |
| IDIQ | Indefinite Delivery/Indefinite Quantity |
| MFC | Most Favored Customer |
| MAS | Multiple Award Schedule |
| MOU | Memorandum of Understanding |
| NCSC | National Customer Service Center |
| OMB | Office of Management and Budget www.whitehouse.gov/omb |
| PBA | Performance-Based Acquisition |
| PL | Public Law |
| PPIRS | Past Performance Information Retrieval System www.ppirs.gov |
| PWS | Performance Work Statement |
| QASP | Quality Assurance Surveillance Plan |
| RFI | Request for Information |
| RFQ | Request for Quotation |
| SBA | Small Business Administration www.sba.gov |
| SIN | Special Item Number |
| SOO | Statement of Objectives |
| SOW | Statement of Work |
| SPOC | State Point of Contact |
| U.S.C. | United States Code |

Section 1: Overview

Understanding the GSA Schedules Program

The General Services Administration (GSA) is a centralized federal procurement and property management agency designed to help federal agencies serve the public. GSA continuously seeks new services and supplies, designs fresh systems, introduces procurement models, addresses customer needs and expectations, and strives to create “Best Value” for customers.

Overview of the GSA Schedules Program

This Schedules program provides eligible federal agencies and state/local entities with a simplified process for obtaining services and supplies.

Simply put, a Schedule is a listing of companies that supply comparable commercial services and supplies through contracts awarded by the GSA. With numerous Schedules in place, the program offers tremendous choices.

Schedule contracts are indefinite delivery/indefinite quantity (IDIQ) contracts awarded to responsible companies that offer commercial services or supplies at fair and reasonable prices. These contracts can be used by eligible ordering activities worldwide (refer to “Eligibility to Use GSA Sources of Supply and Services” on Page 5). After GSA awards the contracts, ordering activities order from Schedule contractors and deliveries are made directly to the customer.

Priorities for Use of the GSA Schedules Program

FAR 8.002 establishes priorities for the use of government supply and service sources to satisfy ordering activity requirements. For more information, visit the online version of the FAR at www.acqnet.gov/far/index.html.

Services

For services, in descending order, the priority for use is:

- ❖ Services that are on the Procurement List maintained by the Committee for Purchase from People Who Are Blind or Severely Disabled (refer to FAR 8.7)
- ❖ Mandatory Federal Supply Schedules (refer to FAR 8.4)
- ❖ Optional Use Federal Supply Schedules (refer to FAR 8.4)
- ❖ Federal Prison Industries, Inc. (refer to FAR 8.6) or commercial sources (including educational and nonprofit institutions)

Supplies

For supplies, in descending order, the priority for use is:

- ❖ Agency inventories
- ❖ Excess from other agencies (refer to FAR 8.1)
- ❖ Federal Prison Industries, Inc. (refer to FAR 8.6)
- ❖ Supplies on the Procurement List maintained by the Committee for Purchase from People Who Are Blind or Severely Disabled (refer to FAR 8.7)
- ❖ Wholesale supply sources, such as stock programs of GSA (refer to 41 CFR 101-26.3), the Defense Logistics Agency (refer to 41 CFR 101-26.6), the Department of Veterans Affairs (refer to 41 CFR 101-26.704), and military inventory-control points
- ❖ Mandatory Federal Supply Schedules (refer to FAR 8.4)
- ❖ Optional use Federal Supply Schedules (refer to FAR 8.4)
- ❖ Commercial sources (including educational and nonprofit institutions)

Competition and the GSA Schedules Program

The FAR states that orders and BPAs placed against the Schedules program are considered to be issued pursuant to full and open competition. The Schedules program meets the requirements of the Competition in Contracting Act (CICA). Reference 41 United States Code 259(b)(3)(A) and FAR 6.102(d)(3). An acquisition is considered in accordance with the use of competitive procedures when ordering agencies follow the ordering procedures of FAR 8.4 Federal Supply Schedules (refer to “Ordering Procedures” on Page 14).

Therefore, when placing orders in accordance with FAR 8.404(a), ordering activities:

- ❖ Need not seek further competition outside the Schedules program.
- ❖ Shall not synopsise the requirement in FedBizOpps.
- ❖ Need not make a separate determination of fair and reasonable pricing, except for the price evaluation required by FAR 8.405-2(d).

Key Benefits of the GSA Schedules Program

The wide variety and large number of Schedule contractors allow ordering activities to access an extensive range of services and supplies to satisfy their requirements. More than 17,000 Schedule contractors offer 11 million services and supplies.

Additionally, the Schedules program offers ordering activities numerous benefits, including:

Flexibility

When placing orders against the Schedules, an ordering activity does not need to order the lowest-priced services/supplies. Instead, ordering activities make a best value determination to select services or supplies to meet their needs (to find more on “Best Value” refer to Page 17).

Schedule users have the flexibility to access the latest technology, because Schedule contractors may submit requests at any time to add services or supplies. Contractors must also delete, by contract modification action, services and supplies that they no longer offer commercially.

Expert Knowledge

GSA forms partnerships with industry experts — from small, innovative companies to Fortune 500 firms — that understand the services and supplies needed by Schedules program customers. Similarly, GSA works with ordering activities to understand their needs. These efforts bring the private sector and ordering activities together in the knowledge supply chain.

Money-Saving Options

❖ Volume Pricing

GSA negotiates competitive contracts with commercial partners that offer discounts equal to or better than those provided to their best commercial customers.

❖ Spot Discounts

Schedule contractors may lower contract prices, offer spot discounts, pass along long-term price reductions and/or provide additional concessions.

❖ Price Reductions

Seeking additional price reductions and concessions allows the customer to achieve improved prices and delivery terms.



NUTS AND BOLTS TIP

The Economy Act FAR 17.500 (b)(1) does not apply to the GSA Schedules program. No memorandum of understanding (MOU) is required for an agency to use a Schedules contract.

Section 2: How GSA Schedules are Awarded

How the GSA Schedules Program Works

The Schedules program provides commercial acquisitions. Through the program, GSA offers a means for you to take advantage of the tremendous benefits that can be achieved only by leveraging the government's immense buying power. The discounts this buying power affords are passed on to ordering activities.

The steps GSA takes in the acquisition process to establish Schedule contracts are similar to those of any federal acquisition. A step-by-step approach is provided below to explain this process.

Awarding a GSA Schedule Contract

Step 1. Acquisition Planning

New Schedules are often created in response to requests from federal customers. Likewise, GSA may create a Schedule after examining emerging commercial and government trends.

GSA conducts market research and electronically posts pre-solicitation notices and synopses. Also, pre-solicitation conferences are held with industry and eligible ordering activities to assist GSA in accurately identifying and describing potential future requirements. Additionally, for each Schedule solicitation, small business set-aside determinations are made.



NUTS AND BOLTS TIP

The set-aside requirements of Part 19 apply at the acquisition planning stage prior to the GSA Schedule solicitations and do NOT apply to the orders and BPAs placed against resulting Schedule contracts (refer to FAR 38.101(e)).

Step 2. Standing Solicitations and Offers

Standing solicitations are posted on FedBizOpps (www.fedbizopps.gov), and offers are solicited and accepted from prospective businesses at any time. Solicitations are continuously refreshed and updated as contract terms and conditions evolve.

Step 3. Evaluation

After offers are received, each individual offer is evaluated on its own merit. Offerors are provided opportunities to clarify deficiencies and are allowed to submit supplemental information.

During the evaluation process, contracting office personnel work closely with the small business technical advisor to evaluate small business subcontracting goals for large business offerors.

Prior to award, a responsibility determination is made that may include the following:

- ❖ Past Performance Report
- ❖ Past Performance Information Retrieval System
- ❖ Open Ratings
- ❖ Excluded Parties List System (EPLS)
- ❖ Financial Capability Assessment

Because the GSA has already done the responsibility determination at the Schedules contract level, ordering agencies are not required to conduct a FAR 9.104 responsibility determination for their Schedule orders. A determination of responsibility focuses on a Schedule contractor's financial resources, integrity, operational controls, technical skills, production control procedures, quality assurance measures, property control systems, technical equipment, facilities and past performance (refer to FAR 9.104) at www.acqnet.gov/far/index.html. Other requirements and clearances can include:

- ❖ EEO clearance (refer to FAR 22.805)
- ❖ Pre-Award Audit (refer to FAR 15.404-2(a))
- ❖ Central Contractor Registration (CCR)

GSA evaluates the Schedule offerings in accordance with procedures in FAR Part 12 and the General Services Administration Acquisition Manual (GSAM). Prior to the award of a Schedule contract, the GSA Contracting Officer confirms that the prices of fixed-price services, supplies and hourly rates for services are fair and reasonable. The prices or discounts offered to GSA are compared with the prices or discounts offered by the company to its own commercial customers.

In addition, the offeror's discount practices are examined, evaluated and used to identify the offeror's "most favored customer" (MFC) pricing. A price analysis is then performed and negotiation strategies developed based on historical data, sales information provided and other market-research techniques.

NOTE: *Contracts awarded under the GSA Schedules program are in compliance with Public Law (P.L.) 95-507, Section 211, Subcontracting: Agency Coordination with the Small Business Administration Resident Procurement Center Representatives.*



NUTS AND BOLTS TIP

Ordering Agencies do *NOT* need to have subcontracting plans reviewed at the Task order level.

Prospective offerors — representing themselves as large firms and whose anticipated contract value (including option periods) is \$550,000 or more — must submit a subcontracting plan that identifies percentage goals for subcontracts with small business firms and describes how the planned goals will be achieved. In turn, GSA reviews, negotiates

and approves the proposed subcontracting goals. Based upon subcontracting plans, agreed percentages enable federal government business to “flow down” to small business concerns. The GSA Contracting Officer complies with the EEO clearance procedures of FAR 22.8005. As a result, a separate EEO clearance is not required at the order level.

Step 4. Negotiations

At the conclusion of contract negotiations, the prospective Schedule contractor submits final proposal revisions. Upon receipt, the Contracting Officer will either reject unacceptable offers or determine that prices are fair and reasonable.

When the offeror is a small business concern and a non-responsibility determination has been made, a Certificate of Competency (COC) is requested from the Small Business Administration (SBA). SBA is authorized by Congress to certify a small company's “capability, competency, credit, integrity, perseverance and tenacity” for performing a specific government contract (refer to FAR 19.6).

Step 5. Contract Award

Award is made to acceptable offerors considering price and other factors.



NUTS AND BOLTS TIP

Most GSA Schedule contracts have a base period of five years, with the potential opportunity of three additional five-year option periods. Options are exercised in accordance with FAR 17.207.

Step 6. Award Notification

Schedule contract award notification includes pricing and the terms and conditions of the contract (to access contracts online, visit the Schedules eLibrary at www.gsa.gov/elibrary).

Step 7. Distribution of Award Information

GSA posts various contract award information on Schedules eLibrary at www.gsa.gov/elibrary. Contract-award pricing information is available online at GSA Advantage!® at www.gsaadvantage.gov (refer to “eTools” on Page 55).



NUTS AND BOLTS TIP

Schedule contractors are required to publish an “Authorized Federal Supply Schedule Pricelist” to provide to ordering activities upon request. The pricelist contains all services and supplies offered by the Schedule contractor as well as the terms and conditions pertaining to each Special Item Number (SIN) for the Schedule contract.

Schedule contractors are required to provide one copy of their price list to any ordering activity upon request. A copy of a price list may also be obtained from GSA by submitting an e-mail request to schedules.infocenter@gsa.gov or by calling (800) 488-3111.

Section 3: Ordering Procedures

Ordering Procedures

“Ordering activity” signifies an activity that is authorized to place orders or establish Blanket Purchase Agreements (BPA) against the GSA Multiple Award Schedule contracts.

GSA has streamlined ordering procedures, allowing an ordering activity to direct its focus on the requirement rather than on a lengthy acquisition process. The FAR provides the primary regulatory guidance for the GSA Schedules program. FAR 8.4, Federal Supply Schedules prescribes procedures that ordering activities must follow when issuing orders using Schedules. By placing an order against a Schedule contract using the procedures in FAR 8.405, the ordering activity has concluded that the order represents the best value (as defined in FAR 2.101, Definitions) and results in the lowest overall cost alternative to meet the government’s need. Although GSA has already negotiated fair and reasonable pricing, ordering activities may and are encouraged to seek additional discounts before placing an order (refer to FAR 8.405-4).

Note: *Ordering Agencies shall seek price reductions for (1) orders over the MOT and (2) for Schedule BPAs regardless of dollar value. FAR 8.405-2(c)(3)(ii).*

For a list of eligible ordering activities, refer to “Eligibility to Use GSA Sources of Supply and Services” on Page 5. Additional information on “Eligibility to Use GSA Sources” is located at www.gsa.gov/schedules.



NUTS AND BOLTS TIP

When agency requirements are to be satisfied using the Schedules, FAR Parts 13, Simplified Acquisition Procedures (except 13.303-2(c)(3)); Parts 14, Sealed Bidding; Parts 15, Contracting by Negotiation and Parts 19, Small Business Programs (except 19.202-1(e)(1)(iii)) do not apply.

The ordering procedures were established by GSA in accordance with FAR 8.4, Federal Supply Schedules. Orders placed against a Schedule contract:

- ❖ Are not exempt from the development of acquisition plans (refer to FAR 7.1)
- ❖ Are not exempt from an information technology acquisition strategy (refer to FAR 39)
- ❖ Are not exempt from the requirements for a bundled contract when the order meets the definition of “bundled contract” (refer to FAR 2.101)



POWER BUYING TIP

Services and supplies may be combined on a single task or delivery order.



DOD BUYER TIP

DOD buyers and other activities using DOD funds should remember that for orders over \$100,000, the policies and procedures in DFARS 208.405-70 take precedence — for more information refer to Page 24.

Note: The information contained in the table below is not all-inclusive. For more information, refer to FAR 8.404 and 8.405.

| Ordering Procedures | |
|--|---|
| Services and products; where no SOW is required. | Services that require an SOW (when ordering services priced at hourly rates). |
| Orders at or below the micro-purchase threshold: Place the order directly with any GSA Schedule contractor that can meet the ordering activity's needs. | Orders at or below the micro-purchase threshold: Place the order directly with any GSA Schedule contractor that can meet the ordering activity's needs. |
| Orders that exceed the micro-purchase threshold, but not the maximum order threshold: Consider reasonably available information about the supply or service offered on the GSA Advantage!® online shopping service, or survey at least three GSA Schedule contractors' price list. Evaluate, then make a "Best Value" determination (refer to Page 17). | Orders that exceed the micro-purchase threshold but not the maximum order threshold: Prepare an SOW or PBSOW in accordance with FAR 8.405-2(b). ❖ Send the RFQ (including the SOW and evaluation criteria) to at least three GSA Schedule contractors Note: The ordering activity should request GSA Schedule contractors to submit firm-fixed prices to perform the services identified in the SOW. Evaluate, then make a "Best Value" determination (refer to Page 17). |

| Ordering Procedures | |
|---|---|
| <p>Orders that exceed the maximum order threshold or when establishing a BPA:</p> <p>Follow the same procedures for orders that exceed the micro-purchase threshold and review additional pricelists or use “GSA Advantage!”® online shopping service. Evaluate, seek price reductions from GSA Schedule contractor(s) considered to offer the best value. After seeking price reductions (refer to FAR 8.405-4), place the order with the GSA Schedule contractor that provides the best value.</p> | <p>Orders that exceed the maximum order threshold or when establishing a BPA:</p> <p>Follow the same procedures for orders that exceed the micro-purchase threshold. Refer to FAR 8.405-2 (c)(2) and send the RFQ (including the SOW and evaluation criteria) to additional GSA Schedule contractors.</p> <p>Note: <i>The appropriate number of additional GSA Schedule contractors will depend on the complexity, scope and estimated value of the requirement.</i></p> <p>Seek price reductions. Evaluate all responses and place the order, or establish the BPA with the GSA Schedule contractor that represents the best value (refer to FAR 8.405-2(d)).</p> |
| Documentation | |
| <p>The ordering activity <i>must, at a minimum</i>, include the following documentation: name of the GSA Schedule contractor from which the service or supply was purchased; a description of the service or supply, the purchase price; if applicable, the circumstances and rationale for restricting consideration of GSA Schedule contractors to fewer than required (refer to FAR 8.405-1).</p> <p>Note: <i>Additional documentation is necessary when the requirement is for a particular brand name*, product or a feature of a product peculiar to one manufacturer. The ordering activity shall include an explanation in the file as to why the particular brand name, product or feature is essential to satisfy the ordering activity's needs.</i></p> | <p>In addition to the information shown on the left side of this table, when acquiring services using the procedures at FAR 8.405-2, the ordering activity must also document: evaluation methodology used; trade-off rationale; price reasonableness (refer to FAR 8-405-2 (b)).</p> <p>Rationale for other than Firm Fixed Price order or performance-based order:</p> <p>Note: <i>If other than a Firm Fixed Priced order is placed, include the basis for the determination to use a labor hour or time-and-materials order.</i></p> <p>For ordering activity requirements that exceed the micro-purchase threshold, document the evaluation of the GSA Schedule contractors' quotations that formed the basis for the selection of the contractor receiving the order. Document the rationale for any trade-offs made in the selection.</p> |
| <p>* NOTE: For brand name or equivalent, refer to “For Customers – Ordering from Schedules, Use of Brand Name Specifications” located at www.gsa.gov/schedules.</p> | |

Order Placement

Ordering agencies may place orders orally (except for services requiring an SOW) or use an established electronic communications format to order services or supplies from GSA Schedule contracts (refer to FAR 8.406-1).

Prior to the placement of an order, the ordering activity must ensure that the regulatory and statutory requirements of the requiring agency have been applied. Orders must include the following information in addition to any information required by the Schedule contract:

- ❖ Complete shipping and billing addresses
- ❖ Contract number, agency order number and date
- ❖ F.O.B. delivery points: e.g., origin or destination
- ❖ Discount terms
- ❖ Delivery time or period of performance
- ❖ SIN or national stock number (NSN)
- ❖ SOW, when required, or brief, complete description of each item

(Ordering by model number, features and options such as color, finish and electrical characteristics, if available, must be specified.)

- ❖ Quantity
- ❖ Number of units
- ❖ Unit price
- ❖ Total price of order
- ❖ Points of inspection and acceptance
- ❖ Other pertinent data: e.g., delivery instructions or receiving hours and size-of-truck limitation
- ❖ Marking requirements
- ❖ Level of preservation, packaging and packing

Best Value

Ordering activities have considerable latitude in structuring their procurement and can consider both price and other factors (e.g., past performance, technical capabilities and qualifications of key personnel) in selecting Schedule contractors. When determining “Best Value,” ordering an activity may use a combination of one or more of the following approaches, such as lowest-priced technically acceptable and/or trade-off processes.

When determining which non-price evaluation factors to include in a RFQ, ordering activities should consider factors other than price, such as:

- ❖ Identify what factors will be considered and select factors that affect service or supply value

- ❖ Determine how factors will be considered and their relative importance to other non-price factors and the possible trade-offs involved
- ❖ Consider the differences between Schedule contractors

Factors that may be considered in determining “Best Value” are listed below. The list is not exhaustive and other factors may also be included.

1. Special features of the service or supply required for effective program performance
2. Past performance records
3. Quality of proposed solutions and cost differences
4. Trade-in considerations
5. Probable life of the item selected
6. Warranty considerations
7. Maintenance availability
8. Environmental and energy efficiency considerations
9. Delivery terms
10. Expertise of the offeror
11. **Socio-economic status**

The benefits of making a “Best Value” selection decision can result in improved mission performance and lower life-cycle costs, while encouraging Schedule contractors to provide their best services and supplies to the government.

The fundamental goal of GSA in managing the Schedules program is to provide an array of acquisition choices that provides sufficient flexibility to satisfy customers in terms of choice, price, quality and timeliness of delivery.



NUTS AND BOLTS TIP

Competition

If the response to any of the following questions is “yes,” competition may be unnecessarily limited.

1. Is the SOW narrowly defined with overly restrictive specifications or performance standards?
2. Is the order written in such a way as to create a continuous arrangement with the same contractor?
3. Was the requirement obtained through the use of restricted competition not in accordance with the procedures in FAR 8.405-6?
4. Is it a brand name or equivalent? Refer to “For Customers – Ordering from Schedules, Use of Brand Name Specifications” located at www.gsa.gov/schedules.

Ordering Activity – A Matter of Choice

Ordering activities have the primary responsibility to meet their agency missions. By using Schedules, ordering activities may access a wide variety of contractors. Ordering activities may place orders in a competitive environment to contractors offering the best value.

Ordering activities are encouraged to explore and understand the features available under the Schedules program and to use them to optimize their purchasing experience (refer to “Making the Most of the GSA Schedules Program” on Page 28). As with any purchase, the ordering activity is responsible for applying the regulatory and statutory requirements for which the order is placed or the BPA is established. The requiring agency shall provide the information on the applicable regulatory and statutory requirements to the contracting officer responsible for placing the order.

Finally, performance-based acquisitions, in which requirements are stated in an objective and clear manner, allow an ordering activity to be results oriented. The PWS or SOO states what is to be accomplished and allows Schedule contractors to propose various solutions to accomplish the objective.

The emphasis is then placed on the selection process “Best Value.” For example, by selecting Schedule contractors interested in continuous improvement, the motivation to reduce costs exists and allows a reduction in price to follow. When ordering activities state the results requested, Schedule contractors are better able to offer more creative, cost-effective solutions.

Market Research – GSA Schedules

Market research is defined as collecting and analyzing information on the market for a government requirement (refer to FAR 2.101). It is an essential element in acquiring commercial items and provides information to the ordering activity in understanding the requirement and what is available in the commercial marketplace.

Acquisitions begin with a description of the ordering activity's needs, stated in terms sufficient to conduct market research. The type, extent and use of market research is determined by the availability of a commercial service or supply, the complexity of the order, its nature (whether the order is to fulfill a new or recurring requirement, an enhancement, etc.), the dollar value of the order, and the industry sector involved (refer to FAR 10.002). Both the ordering Contracting Officer and requiring activity are responsible for market research.

To perform effective market research, the ordering activity must collect and analyze information about the capabilities within the market to satisfy the agency's need. The results of market research will determine if Schedule contracts have items available to meet an ordering activity's needs. At the same time, market research will also indicate whether commercial sources exist that are capable of satisfying the activity's requirement, as well as the customary commercial terms and conditions; e.g., practices of firms engaged in producing, distributing and supporting commercial items in terms of warranty, buyer financing, maintenance and packaging and the market environment.

Other factors ordering activities will want to include during market research are performance standards, industry trends, price, delivery times, payment methods, trade-offs, quality control methods, surveillance methods, etc.

Using GSA *Advantage!*[®] (www.gsaadvantage.gov), ordering activities may perform market research, review the terms and conditions of capable Schedule contractors and perform price comparisons. Refer to Section 11, eTools.

Market Research may be facilitated through the use of eBay to distribute an RFI to Schedule contractors. Using an RFI via eBay may produce valuable feedback from potential Schedule vendors on how to best to tailor the acquisition and how to best utilize Schedule sources.

Limited Source Justification and Approval

Procurement of limited source requirements under Schedules must be justified in writing and approved at the required levels (refer to FAR 8.405-6).

Orders placed under Schedules are exempt from the requirements in Part 6. An ordering activity must justify its actions when (1) restricting consideration of Schedule contractors to fewer than the number required by 8.405-1 or 8.405-2, or, (2) restricting consideration to a brand name item peculiar to one manufacturer.

When an ordering activity restricts consideration of Schedule contractors to fewer than that required in 8.405-1 or 8.405-2, the ordering activity shall procure such requirements under this subpart only if the need to do so is justified in writing and approved at the levels specified in paragraphs “(f)” and “(h)” of FAR 8.505-6.

Orders exceeding the micro-purchase threshold, but not exceeding the simplified acquisition threshold as defined in FAR 2.101.

For proposed orders exceeding the micro-purchase threshold, but not exceeding the simplified acquisition threshold, the ordering activity contracting officer shall document the circumstances when restricting consideration of Schedule contractors to fewer than required in FAR 8.405-1 or 8.405-2.

Orders exceeding the simplified acquisition threshold.

- ❖ For proposed orders exceeding the simplified acquisition threshold, the requiring activity shall assist the ordering activity contracting officer in the preparation of the justification. The justification shall cite that the acquisition is conducted under the authority of the GSA Multiple Award Schedules program (refer to FAR 8.401).
- ❖ As a minimum, each justification shall include the following information:
 - ❖ Identification of the agency and the contracting activity, and specific identification of the document as a “Limited Source Justification.”
 - ❖ Nature and/or description of the action being approved.
 - ❖ A description of the supplies or services required to meet the agency’s needs (including the estimated value).
 - ❖ Identification of the justification rationale (refer to FAR 8.405-6(b)) and, if applicable, a demonstration of the proposed contractor’s unique qualifications to provide the required supply or service.
 - ❖ A determination by the ordering activity contracting officer that the order represents the best value consistent with FAR 8.404(d).



NUTS AND BOLTS TIP

Circumstances that may justify restriction include:

- ❖ Only one source is capable of responding due to the unique or specialized nature of the work.
- ❖ The new work is a logical continuation of an original Schedule order, provided that the original order was placed in accordance with the applicable Schedule ordering procedures. The original order must not have been previously issued under sole source or limited source procedures.
- ❖ An urgent and compelling need exists, and following the ordering procedures would result in unacceptable delays.

- ❖ A description of the market research conducted among Schedule holders and the results or a statement of the reason market research was not conducted.
- ❖ Any other facts supporting the justification.
- ❖ A statement of the actions, if any, the agency may take to remove or overcome any barriers that led to the restricted consideration before any subsequent acquisition for the supplies or services is made.
- ❖ The ordering activity contracting officer's certification that the justification is accurate and complete to the best of the contracting officer's knowledge and belief.
- ❖ Evidence that any supporting data that is the responsibility of technical or requirements personnel (e.g., verifying the government's minimum needs or requirements or other rationale for limited sources) and which form a basis for the justification have been certified as complete and accurate by the technical or requirements personnel.

Justification Approvals

- ❖ For proposed orders exceeding the simplified acquisition threshold, but not exceeding \$550,000, the ordering activity contracting officer's certification that the justification is accurate and complete to the best of the ordering activity contracting officer's knowledge and belief will serve as approval, unless a higher approval level is established in accordance with agency procedures.
- ❖ For a proposed order exceeding \$550,000, but not exceeding \$11.5 million, the justification must be approved by the competition advocate of the activity placing the order, or by an official named in paragraph (h)(3) or (h)(4) of FAR 8.405-6. This authority is not delegable.

- ❖ For a proposed order exceeding \$11.5 million, but not exceeding \$57 million (or, for DoD, NASA, and the Coast Guard, not exceeding \$78.5 million), the justification must be approved by the head of the procuring activity placing the order, or a designee who, if a member of the armed forces, is a general or flag officer, or if a civilian, is serving in a position in a grade above GS-15 under the General Schedule (or in a comparable or higher position under another Schedule); or an official named in paragraph (h)(4) of FAR 8.405-6.
- ❖ For a proposed order exceeding \$57 million (or, for DoD, NASA and the Coast Guard, over \$78.5 million), the justification must be approved by the senior procurement executive of the agency placing the order. This authority is not delegable, except in the case of the Under Secretary of Defense for Acquisition, Technology and Logistics, acting as the senior procurement executive for the Department of Defense.

Notification of Award and Feedback to Unsuccessful Offerors

After award, when using the ordering procedures for services requiring an SOW, the ordering activity shall provide timely notification to unsuccessful offerors. If an unsuccessful offeror requests information on an award that was based on factors other than price alone, a brief explanation of the basis for the award decision must be provided (refer to FAR 8.405-2(d)).

Contract Administration Functions

Contract administration focuses on obtaining quality services and supplies on time and within budget. Contract administration involves actions performed by ordering activities after an order has been placed, to ensure the Schedule contractor performs in accordance with the order requirements and complies with the terms and conditions of the Schedule contract.

Options on Orders Placed Against Schedule Contracts and BPAs

Options may be included on orders placed against Schedule contracts, if the options are clearly stated in the requirement and are evaluated as part of the ordering activity's "Best Value" determination. Such options may be exercised on Schedule contract orders, provided that:

- ❖ Funds are available
- ❖ The requirement covered by the option fulfills an existing government need
- ❖ Prior to exercising an option, the ordering activity ensures that it is still in the government's best interest, with price and other factors considered
- ❖ The options do not extend beyond the period of the Schedule contract, including option year periods

Under the preceding conditions, Blanket Purchase Agreements (BPAs) under Schedule contracts may be established with options that extend beyond the end of the basic Schedule contract period. The length of the order and the risk to the ordering activity could be considered as part of the overall evaluation of best value.

Trade Agreements Act

The current threshold for the applicability of the Trade Agreements Act (for a supply or service contract) is \$193,000. The U.S. Trade Representative revises this threshold approximately every two years (refer to FAR 25.402(b)). GSA applies the threshold on a Schedule-wide basis, and therefore the Trade Agreements Act applies to all Schedule contracts. All Schedule products and services must come from the U.S. or a designated country.

Sometimes an item consists of components from various countries, and the components are assembled in an additional country. It can be difficult to determine which country is the “country of origin.” The trade agreements test to determine country of origin is “substantial transformation” (e.g., transforming an article into a new and different article of commerce, with a name, character, or use distinct from the original article) (refer to FAR 25.001(c)).

The responsibility for making a determination of substantial transformation rests solely with the contractor. The contractor can go to The Office of Regulations and Rulings within U.S. Customs and Border Protection, which is the Federal agency responsible for making substantial transformation determinations or giving their opinions. Their determinations or opinions are based upon tariff laws. The contractor may also request an opinion from a third party expert or make the determination himself.

The Internet address for the U.S. Customs and Border Protection is www.cbp.gov.

Section 4: DOD Ordering Procedures (Section 803)

DFARS 208.405-70 and GSA Multiple Award Schedules

GSA Schedule Orders Exceeding \$100,000

For orders of supplies or services exceeding \$100,000 that use Department of Defense (DoD) funds, ordering activities and non-DoD activities placing orders on behalf of the DoD must follow the policies and procedures in the Defense Federal Acquisition Regulation Supplement (DFARS) 208.405-70. When DFARS 208.405-70 is applicable and a conflict exists between the ordering procedures contained in this manual and the additional ordering procedures in DFARS 208.405-70, the DFARS procedures take precedence.

When using Schedules, DoD Contracting Officers and those authorized to place orders on behalf of the DoD must provide “fair notice” of an activity’s intent to make a purchase to as many Schedule contractors holders as practicable.

The number of Schedule contractors will be based upon appropriate market research that determines the likelihood that the contractors can provide the required services.

The ordering activity’s notice must include a description of the work to be performed and the basis on which the award will be made. DFARS 208.405-70 requires the Contracting Officer to contact as many Schedule contract holders as are capable of performing the work, as practicable, in order to ensure that at least three responses are received.

Posting an RFQ on the GSA’s eBuy system (www.gsa.gov/ebuy) is a simple and an effective way to provide fair notice to all contractors.

When DFARS 208.405-70 Applies

DFARS 208.405-70 applies to all orders and BPAs for supplies and services under the Schedules program that exceed \$100,000 and use DoD money. The restrictions of DFARS 208.405-70 apply, regardless of whether the order is placed by DoD or by another ordering activity using DoD funds, with the exception of orders for Architect-Engineering (A/E) services, which are subject to the Brooks Act. For more information on DFARS 208.405-70 (Section 803) users may want to take the DAU continuous learning module number CLC 010 “Proper Use of Non-DoD Contracts.”

DFARS 208.405-70 and GSA Schedule Blanket Purchase Agreements (BPAs) exceeding \$100,000 using DoD funds

There is no dollar limitation for BPAs established by ordering activities with Schedule contractors under the Schedules program. Prior to establishing single or multiple BPAs, the ordering Contracting Officer must comply with the competition requirements of DFARS 208.405-70.

When a single BPA is established, subsequent task orders may be placed without additional competition against the BPA. For multiple BPAs, Contracting Officers subject to the DFARS and guided by the DFARS PGI 208.404-70 additional ordering procedures should send the complete RFQ (including SOW and selection criteria) to all multiple BPA holders. This procedure is more stringent than that required for non-DoD Contracting Officers who are only required to solicit quotes from “an appropriate number of BPA holders” in accordance with FAR 8.405-3(b)(2).

The ordering Contracting Officer must review BPAs no less than annually to determine whether the BPAs still represent the best value.

Market Research is the Cornerstone

Market research is the cornerstone to compliance with DFARS 208.405-70. Contracting Officers must identify which Schedule contractors are capable of performing the required work, as well as conduct market research to verify how many Schedule contractors are interested in the opportunity and to determine how many are likely to respond. The Contracting Officer must, at a minimum, review the Schedule contracts to determine which Schedule contractors are capable of performing the required work.

For task orders exceeding \$100,000 placed against Schedule contracts, the Contracting Officer has two options:

- ❖ Issue the notice to as many Schedule contractors as practicable, consistent with market research appropriate to the circumstances to reasonably ensure that offers will be received from at least three Schedule contractors who are capable of doing the work.
- ❖ Notify all Schedule contractors (for the applicable SINS) that can provide the required work by posting the RFQ on eBuy or by using another suitable mechanism to “push” the notification to Schedule contractors.

When Fewer than Three Responses are Received

When fewer than three responses are received, the Contracting Officer may place the order if it did not result in more quotes provided the Contracting Officer determines in writing, that no additional contractors who can fulfill the requirement could be identified despite reasonable efforts to do so. However, if the Contracting Officer cannot document that sufficient market research was conducted to identify potential Schedule contractors capable of performing the work, and sufficient Schedule contractors were notified, the RFQ must be re-issued.

Methods of Ordering from a GSA Schedule Contract

There are several methods that ordering activities can use to place an order. These include:

- ❖ Online orders on *GSA Advantage!*® using a governmentwide commercial purchase card
- ❖ Oral orders using a governmentwide commercial purchase card
- ❖ Written orders using agency-prescribed purchase order form
- ❖ Orders issued against a BPA
- ❖ eBuy

Section 5: Responsibilities

When using Schedule contracts, ordering activities are encouraged to take on the role of “smart buyers.” In other words, ordering activities do not need to know how to produce the services/supplies required; instead, they need to be able to:

- ❖ Specify requirements
- ❖ Follow the ordering procedures
- ❖ Determine “Best Value”
- ❖ Select the right contractor
- ❖ Administer the order

Past Performance

Ordering agencies should evaluate whether their contracting partners are reliable by examining their past performance. Past performance is a key indicator for predicting future performance. Elements of past performance may include the ability to meet contract requirements, good workmanship, quality, timeliness, responsiveness to customers and maintaining business relations as well as a firm’s ability to manage and document contract performance, costs and delivery schedules.

Ordering activities should be aware of the distinction between experience and past performance. In the evaluation of these two factors, ordering activities must be reasonable and consistent with the RFQ’s evaluation criteria.

- ❖ Experience is an objective evaluation criteria based on whether the Schedule contractor previously performed the requisite work.
- ❖ Past performance is defined as a measure of the degree to which a Schedule contractor has satisfied its customers in the past and complied with applicable laws and regulations. Past performance is considerably more open to interpretation.

Additional Resources

www.ppirs.gov

Past Performance Information Retrieval System (PPIRS) is a Web-enabled application that allows the retrieval of contractor past-performance information. This system is available to all source selection officials across the entire federal government. PPIRS is sponsored by the DoD eBusiness Office, and is administered by the Naval Sea Logistics Center Detachment Portsmouth. It is also a central warehouse used to retrieve performance assessment reports received from six of the recognized federal report card collection systems:

- ❖ The National Institutes of Health (NIH) Contractor Performance System (CPS)
- ❖ The National Aeronautics and Space Administration (NASA) Past Performance Data Base (PPDB)
- ❖ The Army's Past Performance Information Management System (PPIMS)
- ❖ The U.S. Army Corps of Engineers' Construction Contractor
- ❖ Appraisal Support System (CCASS)
- ❖ The Contractor Performance Assessment Reporting System (CPARS) used by the Navy, USMC, Air Force, DLA and other defense agencies

Order Placement in the Case of a Contractor Debarred, Suspended, Proposed for Debarment

Ordering agencies should check the Excluded Parties Listing System (EPLS) prior to placing a Schedule order (refer to www.epls.gov). FAR 9.405-1, Debarment, Suspension and Ineligibility prohibits agencies from: placing orders exceeding the guaranteed minimum against existing contracts; placing orders against optional GSA Schedule contracts; adding new work; exercising options; and otherwise extending the duration of contracts with contractors that are debarred, suspended or proposed for debarment unless the agency head makes a determination that there are compelling reasons for doing so. This also applies to BPAs and Basic Ordering Agreements (BOAs).



NUTS AND BOLTS TIP

Create your acquisition strategy.

- ❖ Identify objective of the acquisition
- ❖ Develop competitive requirement (e.g., performance-based acquisition)
- ❖ Use oral discussions
- ❖ Identify measures that show the objective will be met
- ❖ Manage the process

Section 6: Making the Most of the GSA Schedules Program

Understanding Terms and Conditions

The GSA Schedules program is designed to assist government customers in achieving their goals. The terms and conditions, including all clauses, are available for viewing for each Schedule through Schedules eLibrary. While GSA will not alter the terms and conditions of a Schedule contract in violation of CICA, nor alter the scope of a contract to meet an individual ordering activity's unique needs, an ordering activity may add terms to an order that do not conflict with the Schedule contract terms and conditions.

An explanation of the following Schedule contract terms and conditions is provided. To view all of the terms and conditions of a Schedule contract, visit contracts online through the Schedules eLibrary at www.gsa.gov/elibrary.

Online Representations and Certifications Application (ORCA) for Schedule contractors can be viewed at <https://orca.bpn.gov>.

Standing Solicitations

Standing solicitations are used in the Schedules program. Under the standing solicitation provisions, offerors may submit offers at any time. Contracts may be awarded for a full five-year period, regardless of when offers are submitted. Solicitations operating under these provisions do not set expiration dates. Identical items may be awarded to more than one Schedule contractor. This arrangement provides industry with the advantage of having a continuous opportunity to participate in the Schedules program and to provide the most current technology (refer to "How GSA Schedules are Awarded" on Page 11).

Economic Price Adjustments (EPA)

Schedule contracts allow GSA Schedule contractors to renegotiate or modify prices in accordance with their commercial practices.

- ❖ Requests for price decreases may be submitted at any time during the contract period to the GSA Contracting Officer.
- ❖ Schedule contractors should refer to the EPA clauses in their Schedule Contract for guidance on how to properly request a price increase.

Small Business

GSA and the Small Business Administration (SBA) strongly support the participation of small business concerns in the GSA Schedules Program. SBA policy allows agencies to include in their procurement base and goals, the dollar value of orders expected to be placed against Schedule contracts, and to report actual Schedule acquisitions as accomplishments against these goals. Currently, orders to Schedule 8(a) contractors do not receive 8(a) credit.

Ordering activities cannot set-aside a task order however, ordering activities may consider socioeconomic status when identifying contractor(s) for consideration or competition for award of an order or BPA. At a minimum, ordering activities should consider, if available, at least one small business, veteran-owned small business, service disabled veteran-owned small business, HUBZone small business, women-owned small business or small disadvantaged business Schedule contractor(s).

Schedule contractors' catalogs/pricelists, *GSA Advantage!*® and Schedules eLibrary contain information on a broad array of supplies and services offered by small business concerns. This information should be used as a tool to assist agencies in providing the maximum practicable opportunities for small business concerns, in order to meet or exceed established small business goals. The information should also be used as a tool to assist in identifying small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, women-owned small business, and small disadvantaged business Schedule contractors when making a best value determination.

For orders exceeding the micro-purchase threshold, ordering activities should give preference to the items of small business concerns whenever two or more items at the same delivered price will satisfy the requirement (refer to FAR 8.405-5). In accordance with FAR 8.405-5(a), ordering activities should rely on the small business representations made by Schedule contractors at the contract level.



NUTS AND BOLTS TIP

It is important to remember that socioeconomic status can be utilized as a primary evaluation factor in source selection.



NUTS AND BOLTS TIP

Ordering activities may count orders with small business firms toward their procurement preference goals. Small Business Schedule contractors are identified in Schedules eLibrary and *GSA Advantage!*® by socioeconomic indicators (s-small business).

Environmental Identification

www.gsa.gov/enviro

GSA's goal is to become the preferred source for environmental products and services in the federal government. A variety of environmental products and services are available to Schedule users to assist them in their efforts to comply with procurement responsibilities outlined in federal environmental laws and regulations.

Environmental products and services are categorized as:

- ❖ Comprehensive Procurement Guideline Products and Other Recycled Products;
- ❖ Energy Star® Products and Other Energy Efficient Products;
- ❖ Biobased Products;
- ❖ Environmentally Preferable Products;
- ❖ Alternative Fuel Vehicles (refer to www.gsa.gov/afv);
- ❖ Non-Ozone Depleting Substances;
- ❖ Priority Chemicals; and
- ❖ Safer Paints, Cleaning, and Other Chemical Products;
- ❖ Environmental Services (refer to www.gsa.gov/environmentalservices); and
- ❖ Energy Services (refer to www.gsa.gov/energyservices).

Schedule contractors are required to properly identify products that have environmental attributes to assist ordering activities seeking to comply with environmental laws and supporting regulations and executive orders (refer to GSAM 552.238-72). Schedule contractors are required to make their identifications in following mediums: (i) The offer itself; (ii) Printed commercial catalogs, brochures and pricelists; (iii) Online products Web site; (iv) Electronic data submission for GSA Advantage!® via GSA's Schedules Input Program (SIP) software or the Electronic Data Interchange (EDI). Ordering activities desiring to utilize service contracts that assist them with preparing environmental impact statements, compliance requirements, environmental/occupational training, remediation and other needs should refer to www.gsa.gov/environmentalservices.

Energy Services (refer to www.gsa.gov/energyservices).

Note: *Customers should review Schedule contractor literature and contact the Schedule contractor directly to obtain complete information regarding environmental claims.*

Applicable guidance can also be found in FAR 23, DFARS 223 and on the GSA Environmental Products Web site at www.gsa.gov/enviro.

Price Reductions

Ordering activities should seek a price reduction whenever the service or supply is available elsewhere at a lower price, when the SIN maximum order threshold is exceeded or whenever establishing a BPA. Ordering activities may request additional pricing discounts or concessions from Schedule contractors at any time. In response, a Schedule contractor can give an ordering activity a discount without passing the discount on to other authorized ordering activities (refer to FAR 8.4). The provision, in essence, allows the Schedule contractor to offer, and the government to accept, spot-pricing available in the commercial market.

This mechanism enhances competition and allows Schedule contractors to react more immediately to the commercial marketplace, move inventory and increase sales through promotional marketing.



POWER BUYING TIP

“Spot pricing” allows the schedule contractor to reduce the GSA Schedule price at any time.

Maximum Order

The Maximum Order (MO) threshold represents the point where, given the dollar value of the potential order, the ordering activity shall seek a price reduction. MO thresholds under the Schedules program are assigned to each SIN (refer to FAR 8.405-1(d)). When considering orders exceeding the maximum order threshold or when establishing a BPA (refer to 8.405-2(c)(3)). The MO is NOT an order limitation and ordering activities can place orders of any size.



POWER BUYING TIP

Ordering activities are required to ask for a price reduction for orders above the MO. The GSA Schedule contractor may:

- ❖ Offer a lower price
- ❖ Offer the current contract price
- ❖ Decline the order

The MO is listed in every Schedule contractor’s price list and in *GSA Advantage!*®.

Performance Incentive

Performance incentives may be agreed upon between the contractor and the ordering office on individual orders or in a BPA.

To the maximum extent practicable, ordering activities may consider establishing incentives when performance is critical to the agency’s mission and incentives are likely to motivate the contractor. Any incentive clause that the Schedule user includes should be:

- ❖ Designed to relate results achieved to specified targets; and
- ❖ Based on contractor achievement of measurable performance objectives.

For example, in a service contract, the quality assurance surveillance plan (QASP) might identify an acceptable quality level (AQL) of 97 percent on-time performance. The order could also provide a price incentive if the contractor performs on time 99 percent of the time.

The RFQ should identify any performance incentive clause that the ordering office intends to include in the resulting order or BPA.

The ordering office must establish a maximum performance incentive price for the services and/or total solutions on individual orders or a BPA utilizing performance incentives.

Worldwide Coverage, Expedited Delivery

A primary goal of the Schedules program is to service the customer, regardless of geographic location. Schedule contracts offer the following choices of delivery:

- ❖ Worldwide – covering domestic and overseas delivery
- ❖ Domestic – covering delivery to the 48 contiguous states, Washington, D.C., Alaska, Hawaii and Puerto Rico
- ❖ Overseas Only – covering delivery to overseas destinations other than Alaska, Hawaii and Puerto Rico

Many Schedule contractors are able to deliver overnight or within a few days.

Trade-ins

Ordering activities should consider trade-ins against the purchase of new equipment when determining the “Best Value” purchase or at the lowest overall cost; e.g., the price of the item plus administrative costs. If equipment was traded in as part of the purchase arrangement, the file should show the type, brand and value of the equipment exchanged. Trade-ins must comply with provisions of the Federal Property Management Regulations refer to 41 CFR 102.39 (www.access.gpo.gov/nara/cfr/waisidx_99/41cfrv2_99.html).



POWER BUYING TIP

Trade-ins are allowable and can be applied directly to orders placed against GSA Schedule contracts.

Governmentwide Commercial Purchase Card – GSA SmartPay®

A governmentwide commercial purchase card is issued by government agencies and allows federal employees to make official purchases. Schedule contractors are required to accept the governmentwide commercial purchase card for orders up to the micro-purchase threshold and are encouraged to accept the purchase card for purchases above this threshold.



POWER BUYING TIP

Ordering activities may make payments for oral or written orders using the governmentwide commercial purchase card (refer to FAR 8.405-7).

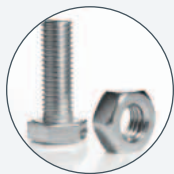
The purchase card enables day-to-day business purchases and allows ordering activities to manage the information contained in the management information reports in order to negotiate better discounts from contractors.

Benefits of the GSA SmartPay® Program

The GSA SmartPay® program provides the federal government and its contractors with numerous benefits including:

- ❖ A streamlined purchasing process that eliminates the use of purchase orders and reduces administrative costs
- ❖ An improved payment process that allows fully automated invoicing and payment processing
- ❖ Performance-based refunds for agencies based on net charge volume
- ❖ Electronic access systems that allow for streamlined financial operations and allocation methods

Remember to identify your ordering activity as a Schedule customer whenever placing an order and ask Schedule contractors for their Schedule contract numbers and Schedule pricing.



NUTS AND BOLTS TIP

Each agency must designate an Agency/Organization Program Coordinator (A/OPC) who shall function as the agency's primary liaison to the purchase card-issuing bank and to GSA. The agency must also identify cardholders and designate a billing disputes office.

Under the governmentwide purchase card program, an annual review of cardholder and approving official records must be performed on a fiscal year basis.

The GSA SmartPay® Web site, available at www.gsa.gov/smartpay, provides a copy of the Master Contract, contractor guides, performance summaries, a list of agency representatives for questions and answers, agency information, and points of contact. Web-based training for agency/ program coordinators is available at www.gsa.gov/aopcpurchasetraining.

A self-paced tutorial is also available at www.gsa.gov/aopcpurchasetraining to instruct new cardholders how to use the purchase card responsibly.



NUTS AND BOLTS TIP

Whenever the purchase card is used as a payment method for a contract action, the contract action may be applied toward ordering agencies goals based upon the socioeconomic characteristics of the GSA Schedule contractor.

Section 7: Inspection/Acceptance and Terminations

Inspection and Acceptance

❖ Services

The ordering activity has a right to inspect all services in accordance with the contract requirements and as called for by the order.

The ordering activity must perform inspections and tests as specified in the order's quality assurance surveillance plan (QASP).

❖ Supplies

The ordering activity (or designated representative) must inspect supplies at destination except when there is mandatory source inspection required by the Schedule contracting agency or the Schedule item is covered by a supply description, and the ordering activity determines that the Schedule contracting agency's inspection assistance is needed. For additional information, refer to FAR 8.406-2 (a) at www.acqnet.gov/far/index.html.

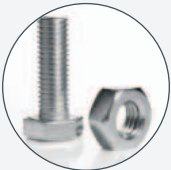
Termination for Cause

Nonconformance of Supplies/Services (Refer to FAR 8.406-3)

If a contractor delivers a supply or service, but it does not conform to the order requirements, the ordering activity shall take appropriate action in accordance with the inspection and acceptance clause of the contract, as supplemented by the order.

If the contractor fails to perform an order, or take appropriate corrective action, the ordering activity may terminate the order for cause or modify the order to establish a new delivery date (after obtaining consideration, as appropriate). Ordering activities shall follow the procedures in FAR 8.406-4, when terminating an order for cause.

An ordering activity contracting officer may terminate individual orders for cause. The ordering activity shall notify the Schedule contracting officer of all instances of termination for cause of individual orders or if fraud is suspected. If the contractor asserts that the failure was excusable, the ordering activity contracting officer shall follow the procedures in FAR 8.406-6, as appropriate.



NUTS AND BOLTS TIP

Only the Schedule Contracting Officer may modify the Schedule contract to terminate any or all supplies or services covered by the Schedule contract for cause (refer to FAR 8.406-4(d)).

FAR 8.406-4, Termination for Cause

Termination for cause shall comply with FAR 12.403 and may include charging the Schedule contractor with excess costs resulting from repurchase.

If the contractor is charged excess costs, the following apply:

- ❖ Any repurchase shall be made at as low a price as reasonable, considering the quality required by the government, delivery requirement and administrative expenses. Copies of all repurchase orders, except the copy furnished to the contractor or any other commercial concern, shall include the notation: Repurchase against the account of [insert contractor's name] under Order [insert number] under Contract [insert number].

When excess costs are anticipated, the ordering activity may withhold funds due the contractor as offset security. Ordering activities shall minimize excess costs to be charged against the contractor and collect or set-off any excess costs owed.

If an ordering activity is unable to collect excess repurchase costs, it shall notify the Schedule Contracting Officer after final payment to the contractor.

The notice shall include the following information about the terminated order:

- A.** Name and address of the contractor
- B.** Schedule, contract and order number
- C.** National stock number, if applicable, or special item number and a brief description of the item(s)
- D.** Cost of Schedule items involved
- E.** Excess costs to be collected
- F.** Other pertinent data

The notice shall also include the following information about the purchase contract:

- A.** Name and address of the contractor
- B.** Item repurchase cost
- C.** Repurchase order number and date of payment
- D.** Contract number, if any
- E.** Other pertinent data

Only the Schedule Contracting Officer may modify the contract to terminate for cause any or all supplies or services covered by the Schedule contract. If the Schedule Contracting Officer has terminated any supplies or services covered by the Schedule contract, no further orders may be placed for those items. Orders placed prior to termination for cause shall be fulfilled by the contractor, unless terminated for the convenience of the government by the ordering activity Contracting Officer.

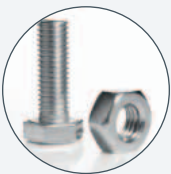
Termination for the Government's Convenience

FAR 8.406-5 permits the ordering activity Contracting Officer to terminate individual orders for the convenience of the government when it is in the government's best interest. Terminations for convenience must comply with FAR 12.403.

Before terminating orders for the government's convenience, the ordering activity Contracting Officer shall endeavor to enter into a "no-cost" settlement agreement with the contractor. Only the Schedule Contracting Officer has the authority to modify the Schedule contract to terminate any or all supplies or services covered by the Schedule contract for the government's convenience. Ordering agencies have authority to terminate individual orders.

Disputes (refer to FAR 8.406-6) pertaining to the performance of orders under a Schedule contract, the ordering activity Contracting Officer may:

- ❖ Issue final decisions on disputes arising from performance of the order
- ❖ Refer the dispute to the Schedule Contracting Officer



NUTS AND BOLTS TIP

FAR 52.212-4(I), Contract Terms and Conditions – Commercial Items, Termination for the Government's convenience. In the event of such termination, the Contractor shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work.

The ordering activity Contracting Officer shall notify the Schedule Contracting Officer promptly of any final decision. If the dispute pertains to the terms and conditions of Schedules contract, the ordering activity Contracting Officer shall refer the dispute to the Schedule contracting officer for resolution under the Disputes clause of the contract and notify the Schedule contractor of the referral.

- ❖ Appeals: Contractors may appeal final decisions to either the Board of Contract Appeals servicing the agency that issued the final decision or the U.S. Court of Federal Claims
- ❖ Alternative dispute resolution: The contracting officer should use the alternative dispute resolution (ADR) procedures, to the maximum extent practicable (refer to 33.204 and 33.214)

Section 8: Request for Quote (RFQ) and Statement of Work (SOW)

In recent years, GSA has sought to facilitate broad access to service contractors. To assist its customers, GSA developed ordering procedures for services requiring an SOW located in FAR 8.405-2 at www.acqnet.gov/far/index.html.

For services requiring an SOW, follow the procedures in FAR 8.405-2.

Note: *Generally, ordering activities use these procedures when ordering services priced at hourly rates as established by Schedule contracts. The applicable services will be identified in the GSA Schedules and the contractor's price list.*

An SOW is necessary when acquiring a service that does not rely on the Schedule contractor's commercial description to define the requirements (e.g., program management services). Using this example, the SOW would describe the requirements for a management process improvement program that must be met — the tasks, deliverables and specific delivery dates.

Understanding an SOW

An SOW is essential when purchasing commercial services. Be aware that SOWs are read and interpreted by government and industry personnel with diverse backgrounds such as engineering, science, accounting, law, contracting and other business fields.

The SOW must be clear, precise, complete and concise. It should contain the following elements per FAR 8.405-2:

- ❖ Work to be performed
- ❖ Location of work
- ❖ Period of performance
- ❖ Deliverable Schedule
- ❖ Applicable performance standards
- ❖ Any special requirements such as security clearances, travel or special knowledge

To the maximum extent practicable, agency requirements shall be performance-based (refer to FAR 37.6, Performance-Based Acquisition).

Background

- ❖ Describes the project in general terms
- ❖ Discusses the purpose of the project — in other words, why the project is being pursued and how it relates to other projects.
- ❖ Include, as necessary, a summary of statutory authority or applicable regulations
- ❖ Provides copies of pertinent background materials, and includes them in a reference or attachment



NUTS AND BOLTS TIP

There are some general preparation guidelines to consider when preparing an SOW:

- ❖ Preparation responsibility. Normally, the person responsible for preparing the purchase request may also be responsible for preparing the SOW. If so, the person may seek advice and assistance from others involved in the acquisition process.
- ❖ The person responsible for issuing the delivery/task order must assure that the SOW is adequate for the acquisition. If the functions are not completed by the same person, it is important for the preparer of the purchase request and the preparer of the SOW to work together to assure that the services required are clearly described.

Objectives

Provide a concise overview of the project and how the results or end products will be used; includes goals.

Scope

Covers the general scope of the work the Schedule contractor will perform and what the government expects to be accomplished.

Tasks or Requirements

Describes detailed work and management requirements.



NUTS AND BOLTS TIP

Remember to define requirements within the scope of commercial items or services.

All services ordered must be within the scope of the GSA Schedule contract.

Deliverables or Delivery Schedule

Describes what the Schedule contractor shall provide; identifies the Schedule contractor's responsibilities; specifies any specialized expertise, and services, training and documentation, as applicable; clearly states the deliverables required, schedule for delivery, quantities and to whom they will be delivered; describes the delivery schedule in terms of calendar days from the date of award; and identifies the type of documentation (printed and/or electronic) to be provided, as well as the quality indicators desired by the government.

Government Furnished Equipment (GFE) and Government Furnished Information (GFI)

- ❖ "GFE" identifies any government-furnished equipment
- ❖ "GFI" (government furnished information) refers to drawings and data beyond the specifications that will be incorporated into the final product

Security Provisions

States any security requirements, as necessary, for the work to be performed.

Place of Performance

Specifies whether the work is to be performed at a government site or the contractor's site.

Period of Performance

Specifies the performance period: e.g., hours, days, weeks or months

RFQ

A RFQ for services requiring an SOW must include the SOW and the quote evaluation criteria, refer to FAR 8.405-2(c).

A RFQ should ensure the following information is included:

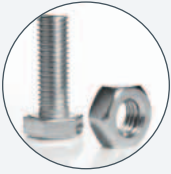
- ❖ RFQ identification number
- ❖ Issuing organization and point-of-contact
- ❖ RFQ closing date and time
- ❖ Notification that only Schedule contractors will be considered
- ❖ If applicable, the intention to award a Single or Multiple BPA
- ❖ Instructions to offerors as necessary (e.g., page limits)
- ❖ Other pertinent information — such as agency-specific provisions and clauses that do not conflict with Schedule contract clauses
- ❖ Other information may be included in the SOW part of the RFQ

Evaluation/Selection Criteria

This section of the RFQ identifies the selection criteria; e.g., technical excellence, management capability, prior experience, personnel qualifications, delivery or performance schedule compliance and/or past performance refer to “Best Value” on Page 17.

Note: *Ordering activities must treat all Schedule contractors fairly and inform them of the requirements of the potential order. The ordering activity must evaluate competitive proposals solely on the factors specified in the RFQ evaluation criteria.*

When an ordering activity issues an RFQ, the request should include the SOW and it shall ask Schedule contractors to submit a price quote to provide the services as outlined in the SOW. The price shall be based on the prices in the Schedule contracts and shall consider the mix of labor categories and level of effort required to perform the services described in the SOW. A firm fixed price order shall be requested, unless the ordering activity makes a determination that it is not possible at the time of placing the order to estimate accurately the extent or duration of the work or to anticipate cost with any reasonable degree of confidence. When such a determination is made, a labor-hour or time-and-materials quotation may be requested. The firm fixed price of the order should also include any travel costs or other direct charges related to performance of the services ordered, unless the order provides for reimbursement of travel costs at the rates provided in the Federal Travel or Joint Travel Regulations. A ceiling price must be established for labor-hour and time-and-materials orders.



NUTS AND BOLTS TIP

A determination of reasonable pricing for services offered should be based on the following three variables:

- ❖ Hourly rates
- ❖ Labor categories proposed to fulfill the task
- ❖ Number of hours proposed for each category

The ordering agency must analyze the mix of categories, hours and rates to determine if the total price for the task is reasonable.

Remember: GSA has already determined that the hourly labor rates are fair and reasonable.



NUTS AND BOLTS TIP

Remember to require in the RFQ that the quoted prices conform to the Schedule contract prices (equal to or lower than) and to seek additional price reductions where appropriate.

Note: *Items/services not on the Schedule contract may be considered "open market."*

Open Market Items

In accordance with FAR 8.402(f), for administrative convenience, an ordering activity Contracting Officer may add items not on the GSA Schedule contract — e.g., open market items — to a GSA Schedule BPA or an individual task or delivery order only if:

- ❖ All applicable acquisition regulations pertaining to the purchase of the items not on the Schedule contract have been followed (e.g., publicizing (FAR Part 5), competition requirements (FAR Part 6), acquisition of commercial items (FAR Part 12), contracting methods (FAR Parts 13, 14, and 15), and small business programs (FAR Part 19))
- ❖ The ordering activity Contracting Officer has determined the prices for the items not on the Schedule contract are fair and reasonable
- ❖ The items are clearly labeled on the order as items not on the Schedule contract; and
- ❖ All clauses applicable to items not on the Schedule contract are included in the order
- ❖ The ordering Contracting Officer has determined that the items are within the scope of the Schedule contract

It is important to recognize that GSA has only negotiated prices or determined prices to be fair and reasonable for those services and supplies that are awarded to Schedule contracts. **Therefore, the ordering activity must comply with the requirements for full and open competition, by following all applicable acquisition regulations and determining price reasonableness for open market items.**



NUTS AND BOLTS TIP

The terms and conditions of the Schedule contract do not apply to open market items and all contract clauses applicable to such items must be included in the order.

Any additional requirements included in a Schedule order must not conflict with the scope of the Schedule contract. Remember, orders must be for commercial items or services within the purview after FAR 12, not just within the scope of a particular Schedule contract, to remain within scope.



NUTS AND BOLTS TIP

Orders with Cost type pricing arrangements are NOT allowed under Schedules!

Performance-Based Acquisitions (PBA)

Performance-based contracting (refer to FAR 37.6) methods are intended to ensure that required performance quality levels are achieved and that total payment is related to the degree that services performed or outcomes achieved meet contract standards.

To the maximum extent practicable, agency requirements shall be performance-based (refer to FAR 37.6). Visit www.acqnet.gov/comp/seven_steps/index.html to review “Seven Steps to Performance - Based Acquisition.”

To assist you, the Center for Acquisition Excellence has developed a Toolkit. The PBA Toolkit provides a simple step process that allows you to develop and practice your understanding of effectively completing the tasks associated with PBA.

Log on to www.gsa.gov/centerforacquisitionexcellence to see what the PBA Toolkit has to offer.

Use of Oral Presentations

Ordering agencies may utilize oral presentations at their discretion. Oral Presentations can potentially reduce the time and cost associated with proposal information. Often, it is easier to communicate and explain an offeror's capabilities either orally or visually instead of in writing. Oral presentations also allow for greater face-to-face interaction and are especially important in those acquisitions where the offeror's key personnel are critical to the success of an acquisition.

Oral presentations by offerors as requested by the government may substitute for, or augment, written information. Use of oral presentations as a substitute for portions of a proposal can be effective in streamlining the source selection process. Oral presentations may occur at any time in the acquisition process, and are subject to the same restrictions as written information, regarding timing oral presentations provide an opportunity for dialogue among the parties. Pre-recorded videotaped presentations that lack real-time interactive dialogue are not considered oral presentations for the purposes of this section, although they may be included in offeror submissions, when appropriate.

The SOW may require each offeror to submit part of its proposal through oral presentations. However, certifications, representations and a signed quote sheet (including any exceptions to the government's terms and conditions) shall be submitted in writing.

Information pertaining to areas such as an offeror's capability, past performance, work plans or approaches, staffing resources, transition plans or sample tasks (or other types of tests) may be suitable for oral presentations. In deciding what information to obtain through an oral presentation, consider the following:

- ❖ The government's ability to adequately evaluate the information
- ❖ The need to incorporate any information into the resultant contract
- ❖ The impact on the efficiency of the acquisition
- ❖ The impact (including cost) on small businesses. In considering the costs of oral presentations, contracting officers should also consider alternatives to on-site oral presentations (such as teleconferencing, video teleconferencing).

When oral presentations are required, the SOW or Statement of Objectives (SOO) shall provide offerors with sufficient information to prepare them. Accordingly, the SOW or SOO may describe:

- ❖ The types of information to be presented orally and the associated evaluation factors that will be used
- ❖ The qualifications for personnel that will be required to provide the oral presentation(s)
- ❖ The requirements for, and any limitations and/or prohibitions on, the use of written material or other media to supplement the oral presentations
- ❖ The location, date, and time for the oral presentations
- ❖ The restrictions governing the time permitted for each oral presentation

The scope and content of exchanges that may occur between the government's participants and the offeror's representatives as part of the oral presentations, including whether or not discussions will be permitted during oral presentations.

The contracting officer shall maintain a record of oral presentations to document what the government relied upon in making the source selection decision. The method and level of detail of the record (such as: videotaping, audio tape recording, written record, government notes and copies of offeror briefing slides or presentation notes) shall be at the discretion of the source selection authority. A copy of the record placed in the file may be provided to the offeror.

When an oral presentation includes information that the parties intend to include in the contract as material terms or conditions, the information shall be put in writing. Incorporation by reference of oral statements is not permitted.

Additional Resources

Refer to the following Web sites for more information:

Guidelines for the Use of Oral Presentations

www.professionals.pr.doe.gov/ma5/MA-5Web

www.nsf/Procurement/Oral+Presentations?OpenDocument

Defense Acquisition Guidebook

Search www.deskbook.osd.mil using keywords “oral presentations”

Center for Acquisition Excellence

<http://cae.gsa.gov>

GSA has prepared the *GSA Schedule Order Checklist* to assist your Schedule order and BPA pre-award and post-award actions. The checklist can be found under “Documents” when registered for the free online ordering officer course “*Using GSA Schedules – Customer*” at the GSA Center for Acquisition Excellence, <http://cae.gsa.gov>.

Section 9: Schedule Blanket Purchase Agreements (BPAs)

A Schedule BPA is established by an ordering activity with a Schedule contract to fill repetitive needs for supplies or services (refer to FAR 8.405-3). BPAs leverage an ordering activity's buying power in taking advantage of quantity discounts, saving administrative time and reducing paperwork. BPAs may be established with one or more Schedule contractors.

BPAs are considered to be issued using full and open competition when using the procedures in FAR 8.4 (refer to FAR 6.102(d)(3)) at www.acqnet.gov/far/index.html). Ordering activities shall not seek competition outside of the Schedules or synopsize the requirement.

Benefits of a Schedule BPA

Contractual terms and conditions are contained in Schedule contracts and are not to be re-negotiated when establishing GSA Schedule BPAs. Therefore, as a purchasing option, Schedule BPAs eliminate such contracting and open market costs as the search for sources, the need to prepare solicitations and the requirement to synopsize the acquisition. BPAs also:

- ❖ Provide an opportunity to negotiate improved discounts
- ❖ Satisfy recurring requirements
- ❖ Reduce administrative efforts by eliminating repetitive, individual orders and payments
- ❖ Let customers obtain better value by leveraging buying power through volume purchasing
- ❖ Enable an ordering activity to use streamlined ordering procedures
- ❖ Permit an ordering activity to incorporate Contractor Team Arrangements (CTAs)
- ❖ Allow for quicker turnarounds on orders
- ❖ Permit an ordering office to incorporate terms and conditions not in conflict with the underlying contract

A Schedule BPA can be set up for an agency's field offices across the nation, thus allowing them to participate in the Schedule BPA and place orders directly with Schedule contractors. In doing so, the entire agency reaps the benefits of additional discounts negotiated into the Schedule BPA.

A multi-agency Schedule BPA is also permitted if the Schedule BPA identifies the participating agencies and their estimated requirements at the time the Schedule BPA is established.

Setting up a GSA Schedule BPA

Schedule BPAs under the GSA Schedules Program are established using Schedule ordering procedures; e.g, the Ordering Procedures for Supplies, and Services Not Requiring

a Statement of Work (SOW) (refer to FAR 8.405-1) or the Ordering Procedures for Services Requiring a Statement of Work (SOW) (refer to FAR 8.405-2). An ordering activity shall request a price reduction when establishing a Schedule BPA, regardless of the size of individual orders.

Ordering activities may consider socioeconomic status when identifying contractors for consideration or competition for award of an order or Schedule BPA. At a minimum, ordering activities should consider, if available, at least one small business, veteran-owned small business, service disabled veteran-owned small business, HUBZone small business, women-owned small business, or small disadvantaged business Schedule contractor (refer to FAR 8.405-5). GSA *Advantage!*® and Schedules eLibrary contain information on small business representations of Schedule contractors.

Schedule BPAs shall address the frequency of ordering, invoicing, discounts, requirements (e.g., estimated quantities, work to be performed), delivery locations, and time. When establishing multiple Schedule BPAs, the ordering activity shall also specify **the procedures for placing orders under the Schedule BPAs.**

Single BPA

A single BPA should be established using the same procedures outlined in FAR 8.405-1 or 8.405-2. When establishing a single BPA, the ordering activity should address the following:

- ❖ The frequency of ordering, invoicing, discounts, requirements (or estimated quantities, work to be performed), delivery locations and time
- ❖ Supplies or services to be ordered and type of pricing, such as hourly rate services
- ❖ A Firm Fixed Price (FFP), or Labor Hour or Time and Materials (T & M) pricing arrangement for individual tasks or orders as allowed in the GSA Schedule Contract
- ❖ That a single BPA contractor can meet estimated requirements
- ❖ That the government will obtain the best value from a single Schedule contractor, while considering likely quantity discounts, administrative savings and other benefits related to reduced acquisition lead-time
- ❖ Authorized users

For example, you have a recurring requirement for a wide variety of common use electronic components for “in-house” maintenance of the agency’s information technology equipment. Using Schedule’s eLibrary, you find that IT support equipment is listed under Schedule 70, Special Item Number (SIN) 132 8, and that there are numerous IT dealerships whose Schedule contract price lists include the wide range of supplies that you require. Several of the dealerships are small.

You issue a Request for Quotes (RFQ) for a single award Schedule BPA encompassing the indefinite quantities of items in the generic categories of the types of supplies you require, e.g., microchips, hard drives, flash memories, etc. You establish evaluation factors such as business size, past performance, delivery and price.

Advantages of Single Schedule BPA Include:

- ❖ Simplifying all of your future orders — for items covered by BPA you can go to just one Schedule vendor
- ❖ Better pricing and terms by leveraging the full value of the requirement to attach the maximum competition

Multiple BPAs

Multiple BPAs should be established using the procedures in FAR 8.405-3 at www.acqnet.gov/far/index.html. Multiple BPAs are established with more than one Schedule contractor. They are appropriate when the ordering activity determines that more than one BPA is needed to meet its needs, or when the requirement is less defined. The number of BPAs to be established is within the discretion of the ordering activity establishing the BPAs and should be based on a strategy that is expected to maximize the effectiveness of the BPA(s). In determining how many BPAs to establish, consider:

- ❖ The scope and complexity of the requirement(s)
- ❖ The need to periodically compare multiple technical approaches or prices
- ❖ The administrative costs of Multiple BPAs
- ❖ The technical qualifications of the Schedule contractor(s)



NUTS AND BOLTS TIP

If the BPA is for hourly rate services, the ordering activity shall develop a statement of work for requirements covered by the BPA. All orders under the BPA should specify a price for the performance of the tasks identified in the statement of work.

If the ordering activity establishes Multiple BPAs, before placing an order exceeding the micro-purchase threshold, the ordering activity shall:

- ❖ Forward the requirement, or SOW and the evaluation criteria, to an appropriate additional number of Schedule BPA holders in accordance with the BPA ordering procedures.
- ❖ Evaluate the responses received, make a “Best Value” determination (refer to FAR 8.404(d) at www.acqnet.gov/far/index.html) and place the order with the Schedule BPA holder that represents the best value.

Duration of Schedule BPAs

Schedule BPAs generally should not exceed five years in length, but may do so to meet program requirements. Contractors may be awarded Schedule BPAs that extend beyond the current term of their Schedule contract, so long as there are option periods in their Schedule contract that, if exercised, will cover the Schedule BPA's period of performance (refer to FAR 8.405-2 (c)).

Review of Schedule BPAs

The ordering activity that established the Schedule BPA shall review it at least once a year to determine whether:

- ❖ The Schedule contract, upon which the Schedule BPA was established, is still in effect
- ❖ The Schedule BPA still represents the best value (refer to 8.404(d))
- ❖ Estimated quantities/amounts have been exceeded and additional price reductions can be obtained
- ❖ The ordering activity shall document the results of its review



NUTS AND BOLTS TIP

GSA has established that the prices contained within the contractor's Schedule price list are fair and reasonable. However, the ordering activity is responsible for considering the level of effort and mix of labor proposed to perform a specific task being ordered, and for making a determination that the Total Price is fair and reasonable.

For example, video production services may be considered less defined in the sense that the ordering activity may know that they will require five videos during the next year but are unsure of the length, format or objective (educational, promotional, informational, etc.) of each video. In this case, the ordering activity may elect to award multiple BPAs so that they may maximize the potential for "Best Value" for each order placed.

| Guide for Establishing Single/Multiple BPAs for Products and Services Requiring an SOW | | |
|--|------------------------------------|---|
| If – | Then – | You would – |
| Consider whether the recurring tasks are substantially similar (Multiple Award) or substantially dissimilar (Single Award) Or the tasks you are purchasing can clearly be identified, such as mail management (accepting incoming mail and mail distribution) | Follow the procedures in FAR 8.405 | Make a "Best Value" selection and establish a Single BPA Note: <i>You may then place all orders with the BPA holder without further "Best Value" selections. Remember when establishing a BPA to seek a price reduction!</i> |
| The tasks you are planning on purchasing cannot be clearly defined, such as program management support for multiple offices | Follow the procedures in FAR 8.405 | Establish Multiple BPAs with technically qualified Schedule contractors Note: <i>When issuing an order off of a multiple BPA, you must forward the requirement or SOW and the evaluation criteria to an appropriate number of BPA holders, as established in the BPA ordering procedure.</i> |

| If – | Then – | You would – |
|--|--|--|
| Your BPA estimate is at or below the micro-purchase threshold | Follow the procedures in FAR 8.405-2 | Prepare SOW (with evaluation criteria) and RFQ and transmit to three Schedule BPA holders |
| Your BPA estimate exceeds the maximum order threshold | Follow the procedures in FAR 8.405-2 | Provide the RFQ (including the SOW and evaluation criteria) to additional Schedule contractors. When determining the appropriate number of additional Schedule contractors, the ordering activity may consider, among other factors, the complexity, scope and estimated value of the requirement and the market research results. Over the maximum order threshold, you must seek price reductions. |
| BPAs for Hourly Rate Services | | |
| The BPA is for hourly rate services | Follow the procedures in FAR 8.405 | Request a ceiling price for the performance of the tasks identified in the SOW for all orders placed against the BPA |
| Duration of BPAs | | |
| The ordering activity establishes a BPA that extends beyond the current term of the GSA Schedule contract upon which the BPA was established | BPA should not extend beyond five years | Option periods that are included in the BPA that are within the Schedule contract option periods |
| Generally, BPAs should not exceed five years in length | BPAs may be extended to meet program requirements, but cannot exceed the contract period | Contractors may be awarded BPAs that extend beyond their current Schedule contracts, provided there are option periods in their Schedule contracts that, if exercised, will cover the BPA's period of performance |
| BPA Documentation | | |
| <p>When establishing Blanket Purchase Agreements under the GSA Schedules Program, the ordering activity shall document:</p> <ul style="list-style-type: none"> ❖ The Schedule contracts considered, noting the contractors with which BPAs have been established ❖ A description of the requirements (e.g., estimated quantities, work to be performed) ❖ The results of negotiations including agreed upon pricing ❖ The estimated value ❖ If applicable, the circumstances and rationale for restricting consideration of Schedule contractors to fewer than required in the Schedule ordering procedures ❖ The evaluation methodology used in selecting the contractor to receive the BPA(s) ❖ The rationale for any tradeoffs in making the selection ❖ The fair and reasonable price determination required by FAR 8.405-2(d) for BPAs with hourly rate services ❖ If applicable, the rationale for placing other than firm fixed price or performance-based orders ❖ The results of the annual review | | |

BPA Documentation

When ordering from BPAs, the ordering activity shall document:

- ❖ The BPA holder from which the supply or service was purchased
- ❖ A description of the supply or service purchased
- ❖ The amount paid
- ❖ The total price for any orders are reasonable by performing a price determination as required by FAR 8.405-2(d) considering the level of effort and mix of labor
- ❖ If applicable, the rationale for using other than a firm fixed price order or a performance-based order

If ordering from multiple BPAs, in addition to the above, the ordering activity shall document:

- ❖ The BPAs considered
- ❖ The evaluation methodology used in selecting the BPA holder to receive the order
- ❖ The rationale for any tradeoffs in making the selection

Review of BPAs

| | | |
|---|--|--|
| The ordering activity has established a BPA | The BPA shall be reviewed at least once a year | Review the Schedule contract upon which the BPA is based to determine whether it is still in effect. Determine whether the BPA still represents the best value (refer to FAR 8.404(d)). Determine whether the estimated quantities/amounts have been exceeded and attempt to obtain additional price reductions. Document the results of the review. |
|---|--|--|

Note: For Ordering Procedures for Supplies and Services exceeding \$100,000 when using DoD funds, follow procedures listed on Page 24, Section 803 and Schedules or refer to DFARS 208.405-70.



NUTS AND BOLTS TIP

The RFQ should inform the Schedule contractors if you intend to establish a single or multiple BPA. It also must tell them the evaluation criteria you will use for the award and the relative importance of those evaluation factors.

Setting up a Multi-Agency Schedule BPA

Before a Multi-Agency BPA is established, multiple ordering activities should identify, define and consolidate their requirements to obtain greater discounts. All users must also be identified as signatories. To ensure “Best Value” is obtained, the BPA must reflect the requirements of all users with an estimate of the quantity.

The ordering activity can set up a Schedule BPA so that the agency’s various ordering activities/field offices may place orders against the Schedule BPA directly with the Schedule contractor. In order for these ordering activities/field offices to participate in the Schedule BPA, the Schedule BPA must list the users and corresponding points of contact (refer to FAR 8.405-3(a)(4) at www.acqnet.gov/far/index.html).

Obligation of Funds

A Schedule BPA does not require the obligation of funds. Funds are obligated when orders are placed against the BPA. Since the government is not obligated to make any purchases under the BPA, this can be stated as:

- ❖ “The government estimates, but does not guarantee, that the volume of purchases using this BPA will be \$_____ (estimate). This BPA does not obligate funds. The government is obligated only to the extent of authorized orders actually made against the BPA.”

Sample Schedule BPA

A Sample BPA format is available to help capture the necessary elements. Download a copy of a sample BPA at www.gsa.gov/bpa, click on the Blanket Purchase Agreement Format link. For additional guidance and training on BPAs, visit the Center for Acquisition Excellence at <http://cae.gsa.gov>.

Using Options Under a Schedule BPA

Schedule BPAs against Schedule contracts may be established with options that extend beyond the end of the basic Schedule contract period, provided that the basic Schedule contract period has options that if exercised will cover the BPA's period of performance. If the current Schedule contract period expires and its options are not exercised, the option of the BPA cannot be exercised. The underlying Schedule contract must be in effect for an agency to order under a Schedule contract or BPA.

For additional information on BPAs, log on to www.gsa.gov/bpa.

Training

For additional guidance and training on BPAs, visit the Center for Acquisition Excellence at <http://cae.gsa.gov>.



NUTS AND BOLTS TIP

Additional clauses that are inconsistent with the terms and conditions of the GSA Schedule contract cannot be added to Schedule BPAs. However, special provisions that do not conflict with the terms and conditions of the Schedule contract may be added to an individual GSA Schedule BPA, such as organizational conflict of interest clauses, or key personnel. It is always wise to check with the GSA Contracting Officer to ensure that any additional agency added provisions do not conflict with the Schedule contract. If your BPA requirement increases or changes so significantly that it changes the scope of your existing BPA, you must consider establishing a new BPA.

Section 10: Contractor Team Arrangements (CTA)

A Schedule Contractor Team Arrangement (CTA) is an arrangement between two or more Schedule contractors to work together to meet agency requirements. The CTA document is a written agreement between team members detailing the responsibilities of each team member. The CTA allows the contractor to meet the government agency needs by providing a total solution that combines the supplies and/or services from the team members' separate Schedule contracts. It permits contractors to complement each other's capabilities in order to compete for orders for which they may not independently qualify. A customer benefits from a CTA by buying a solution rather than making separate buys from various contractors.

Benefits of CTAs

- ❖ Satisfies the customer with a single solution
- ❖ Increases competitive edge
- ❖ Increases market share
- ❖ Increases visibility
- ❖ Focuses on core capabilities
- ❖ Obtains complementary capabilities
- ❖ Integrates different skills
- ❖ Offers additional opportunities with customers
- ❖ Builds direct relationships with customers
- ❖ Maximizes use of one or more Schedule solutions
- ❖ Shares risks and rewards
- ❖ Allows more opportunities for small business and small disadvantaged businesses
- ❖ Reduces the number of items Schedule contractors need to carry on their Schedule contracts, thus reducing inventory and tracking costs

Do not confuse Schedule Contractor Team Arrangements (CTAs) and Prime Contractor/Subcontractor Arrangements.



NUTS AND BOLTS TIP

Do not confuse Schedule Contractor Team Arrangements with the definition of contractor teaming arrangements found in FAR Subpart 9.6. None of the definitions (the partnership/joint venture, or the prime/sub relationship) outlined in FAR Subpart 9.6 apply to Schedule CTAs.

In prime/sub arrangements, the relationship is defined and controlled by the prime contractor, whereas in CTAs, the roles and responsibilities are defined by the team, as accepted by the government ordering activity. A schedule CTA member may utilize a subcontractor. The following chart summarizes key differences.

| Contractor Team Arrangement (CTA) | Prime Contractor/Subcontractor Arrangement |
|--|--|
| Each team member must have a Schedule contract | Only the prime contractor must have a Schedule contract |
| Each team member is responsible for duties addressed in the CTA document. These duties fall within the scope of their individual Schedule contracts. | The prime contractor cannot delegate responsibility for performance to subcontractors. The prime contractor can provide only what is on its Schedule contract, it cannot subcontract to offer items/services for which it does not hold a Schedule contract. |
| Each team member has privity of contract with the government and can interact directly with the government | Only the prime contractor has privity of contract with the government and can interact with the government. The prime contractor is responsible for its subcontracting activities (ordering activities are permitted to specify in the RFQ that the use of subcontractors requires prior approval by the ordering activities). |
| The ordering activity is invoiced at each team member's unit prices or hourly rates as agreed in the task or delivery order or Schedule BPA | The ordering activity is invoiced in accordance with the prime contractor's Schedule contract |
| Total solutions, otherwise impossible under individual Schedule contracts, can be put together quickly and easily | The prime contractor is limited to the supplies and/or services awarded on its Schedule contract |

A contractor holding multiple Schedule contracts may offer a solution that crosses those contracts. Such a solution would not be considered a CTA because there is only one contractor.

To ensure that the responses received from Request for Quotations (RFQ) are, in fact, CTAs, GSA strongly recommends that an ordering activity's RFQ indicate that all CTAs must be specifically identified as such and that the CTA document be submitted to the government as part of the quotation in response to the RFQ. Do not be confused, for example, by a "Team ABC" response; the response should clearly identify that the Schedule contractors are proposing a "Contractor Team Arrangement as evidenced by the CTA document." The CTA document should designate all team members, their corresponding Schedule contract numbers, and describe the tasks to be performed by each team member, along with the associated proposed prices (e.g., unit prices, labor categories and hourly rates). If applicable, the team lead should also be identified, as should the individual team members responsible for delivery, warranty and other issues. The ordering activity should then be

able to verify that any proposed unit prices or hourly rates do not exceed the prices awarded under each team member's Schedule contract and avoid any misunderstandings regarding each team member's responsibilities and prices.

Schedule contractors may establish a CTA in advance of any known requirement or after requirements are defined and the RFQ issued. Having an on-the-shelf team arrangement for non-complex buys will allow the contractors to respond quickly and easily when requirements emerge. For highly complex buys, a customized CTA may be required. In either case, the CTA document should include the names of the team members, their respective Schedule contract numbers, and a description of the responsibilities of each team member. Agencies should review CTA documents to ensure that the documents clearly delineate team member responsibilities and provide for coordination and cooperation between team members, thus diminishing the risk for all parties involved.

In providing a total solution to an agency's requirement under a CTA, the supplies and services (for services, the LABOR CATEGORIES under each Schedule contract need to be segregated) proposed should be identified under each team member's Schedule contract. Any proposed supplies and services that are not part of a Schedule contract (e.g., open market items) may be included only after all applicable acquisition regulations have been followed (refer to FAR 8.402(f)) and must be clearly labeled as such. GSA does not approve the CTA document. CTA documents are developed by the team members themselves and will vary from one CTA document to another. While not all-inclusive, GSA has developed elements of a Contractor Team Arrangement Document (www.gsa.gov/cta), which identifies areas that are typically of interest to the government. GSA strongly encourages the submission of the CTA document in response to a RFQ.

The CTA is solely between the team members and cannot conflict with the underlying terms and conditions of each team member's Schedule contract. As part of the ordering agency's review of quotations, however, ordering activities may identify deficiencies in the CTA in order to enhance the probability of successful performance. While the government is not a party to the CTA, it is a beneficiary of the arrangement and has a vested interest in the successful performance of the CTA.

Invoicing

The CTA document should designate who is responsible for invoicing and payment. While the team lead may submit an invoice on behalf of all team members, GSA recommends that payment be made to each team member. GSA recognizes, however, that there may be instances where it is advantageous to craft the CTA document so that payment is made to the team lead who, in turn, pays each team member. Under such circumstances, the CTA document should clearly indicate that all team members agree to this payment arrangement. The CTA document should also acknowledge that any dispute involving the distribution of payment between the team lead and the team members will be resolved by the team members, without any involvement by the government.

Problems/Issues

Since each team member in a Schedule CTA has a Schedule contract, each team member is held accountable under the terms and conditions of his contract for any problems such as warranty or performance issues. The CTA document should spell out which team member is responsible at each phase of the project. When evaluating team member performance, the ordering activity Contracting Officer should evaluate each team member accordingly. Disputes between CTA members involve them as parties to the CTA. The Government is not a party to such disputes.

Fees/Charges

There could be a cost involved for contractors to participate in a Schedule Contractor Team Arrangement. The use of a CTA should not increase the price of the order to the government. The CTA document should spell out any costs associated with the arrangement and how they will be allocated among team members. The benefits of a CTA may more than compensate for a contractor's costs by expanding the firm's capabilities and broadening its customer base. Please keep in mind that each team member is governed by his own Schedule contract, and that the CTA price quotation cannot exceed the awarded unit prices or hourly rates under its Schedule contract.

Pricing

Each team member's work should be priced in accordance with its own Schedule contract.

Communication

The Teaming Agreement specifies communication in a CTA. Points of contacts should be spelled out in the CTA document for the team lead and for each member. In a CTA, the ordering activity communicates directly with the Schedule contractors. The parties may agree that all communication with the ordering activity will be through the Team Lead.

Use of Subcontractors

Schedule team members may still use subcontractors as allowed by their GSA Schedule contracts and as may be addressed in the CTA. Those subcontractors, however, would not be considered members of the "team," and the responsibility for the subcontractors would rest with the applicable team member who employs them.

To obtain additional information on CTAs, register at the Center for Acquisition Excellence (<http://cae.gsa.gov>).

Use of Blanket Purchase Agreements (BPAs)

CTAs can also be the basis for a Schedule BPA utilizing the underlying Schedule contracts of the CTA members. The Schedule BPA should address the details, arrangements or administration of the CTA. For additional information, visit the FAQ at www.gsa.gov/cta.

Section 11: eTools

Center for Acquisition Excellence

The Center for Acquisition Excellence provides a state-of-the-art online training tool for Schedule users and businesses seeking to become Schedule partners.

The Center for Acquisition Excellence is designed as a virtual campus, including a map with links to buildings that house free training courses and knowledge resources normally found on a college campus. The Center for Acquisition Excellence consists of an Administration Building, Learning Center, Conference Center, Teaming Center and Coffee Shop. Additional features include Announcements, Ask the Expert, Surveys, Student Records and various other support functions.

In addition to online training, the Center for Acquisition Excellence provides the latest Schedules information, available free of charge, 24 hours a day, seven days a week. The Center for Acquisition Excellence offers:

- ❖ Expanded functionality
- ❖ In-depth courses, including quizzes
- ❖ Reference links
- ❖ Bulletin boards
- ❖ Course surveys for user feedback
- ❖ An “Ask the Expert” feature

www.gsa.gov/CAE

Schedules eLibrary

The Schedules eLibrary is the official online source for complete GSA and VA Schedules and contract award information as well as GWACs. It provides a centralized source for researching Schedules that includes basic ordering guidelines, complete Schedules listings and a powerful search engine.

Schedules eLibrary is available 24/7 and is updated daily to ensure access to the latest Schedules contract award information.

Customers can link to *GSA Advantage!*[®] and eBuy.

Search which suppliers have a contract and what's available by using various search options, e.g., Schedule contractor's name, contract number, SIN, Schedule number or keyword.

Key features of the Schedules eLibrary include:

- ❖ Access to information on millions of services and supplies
- ❖ The latest news about the Schedules program
- ❖ Direct link to the *GSA Advantage!*® online shopping
- ❖ An improved design for easier browsing and navigation
- ❖ New “preview” pages allowing users to jump directly to the areas needed without unnecessary paging
- ❖ The ability to download Schedules information by Schedule or SIN
- ❖ Access to contractor Web sites and e-mail addresses
- ❖ Ability to search by geographical location

www.gsa.gov/elibrary

***GSA Advantage!*®**

GSA offers an online shopping service *GSA Advantage!*® through which ordering activities may place orders against the Schedules. This online catalog, information and ordering system creates a direct customer-Schedule contractor relationship. It is designed to make the federal buying process more efficient by providing ordering activities the ability to search, identify, compare and order items that offer the best value (refer to FAR 2.101). However, for services that require an SOW, the ordering activity could create the order through eBuy (www.gsa.gov/ebuy), GSA's electronic request for quotes system.

By using *GSA Advantage!*®, ordering activities have access to millions of services and supplies — 24 hours a day, 365 days a year. Many supplies are available for delivery within a few days.

You can perform price reviews and comparisons, browse and park your shopping cart to finish orders at a later time.

GSA Advantage!® allows ordering agencies to:

- ❖ Search for items using keywords, part numbers, National Stock Numbers (NSNs), supplier names, contract numbers, etc.
- ❖ Compare features, prices and delivery options
- ❖ Configure supplies and add accessories
- ❖ Review delivery options
- ❖ Select a convenient payment method
- ❖ Place orders directly online
- ❖ View order history to track status, re-order or cancel

To shop *GSA Advantage!*® ordering activities will need either a governmentwide commercial purchase card or a GSA Activity Address Code (AAC).

An AAC may be obtained from GSA by clicking on the “Apply for an AAC” link on the sign-on screen.

To browse *GSA Advantage!*® use the “browse” option on the sign-on screen and enter the appropriate ZIP code. A governmentwide commercial purchase card or AAC is not necessary for browsing.

For additional information, a tutorial is available online and can be downloaded at www.gsaadvantage.gov.

Security

GSA Advantage!® utilizes industry standard secure sockets layer (SSL) technology. SSL encrypts the transfer of information between the ordering activity's browser and our server.

Technical Problems

Questions of a technical nature or related problems, or suggestions about how we may better serve you may be directed to gsa.advantage@gsa.gov.

Order Status Questions

For shipping, transportation or billing discrepancies on NSN items, contact GSA's National Customer Service Center (NCSC) at (800) 488-3111 or click on “Discrepancy Report” found under the Customer Service portion for a pre-addressed form in *GSA Advantage!*®. You can also e-mail rodsn.nscs@gsa.gov.

For order status, follow-ups, etc., you may contact the supplier directly. The Schedule contractor's name and telephone number are printed on the order summary received at checkout, and are also available through order history/status.

www.gsaadvantage.gov

eBuy

eBuy, GSA's electronic Request for Quotation (RFQ) system, is an online RFQ system that allows ordering activities to post requirements, obtain quotes and issue orders electronically.

eBuy streamlines the ordering process with point-and-click functionality by allowing RFQs and responses to be exchanged electronically between federal agencies and Schedule contractors. Ordering activities can maximize their buying power by leveraging the power of the Internet to increase Schedule contractor participation, and save money and time.

eBuy provides a transparent buying mechanism, allowing Schedule contractors greater opportunities to offer quotes and increase business volume for services and supplies provided under their Schedule contracts.

eBuy's Benefits to Ordering Activities include:

- ❖ eBuy allows ordering activities to maximize their buying power by leveraging the power of the Internet to obtain quotes that will result in a best value purchase decision
- ❖ eBuy provides ordering agencies with a great RFQ management tool that will result in saving time and money
- ❖ eBuy is interactive, allowing ordering agencies to communicate requirements and quotes via the Web and e-mail
- ❖ eBuy is efficient, streamlining the acquisition process
- ❖ eBuy fulfills the requirements of notification to all under Section 803
- ❖ eBuy is easy to use
- ❖ eBuy can be a key component of market research on potential schedule vendors through the use of its RFI functionality

For more information or assistance, contact GSA at gsa.advantage@gsa.gov.

How does eBuy work?

When using the eBuy system, ordering activities simply prepare and post an RFQ (with or without an SOW) for specific services and supplies for a designated period of time. This is then available for review by all Schedule contractors awarded the identified SIN(s).

While an ordering activity may choose to notify a select population of Schedule contractors of their requirement (who receive an e-mail notice of the posting), it is available for review by all Schedule contractors awarded the identified SIN(s).

Schedule contractors not notified of the posting by e-mail may still submit a quote for any RFQ placed under their awarded SIN. Schedule contractors are encouraged to check the eBuy site daily for RFQ opportunities. Only Schedule contractors with electronic price lists loaded to GSA *Advantage!*® have access to eBuy and the opportunity to review and receive notifications of postings.

Schedule contractors post their proposals directly to eBuy. Once an RFQ has closed, the ordering activity may then evaluate and accept the quote that represents the best value. Access to this information is limited to the ordering activity. The ordering activity may then issue an order through e-Buy or off-line to any Schedule contractor whose quote was accepted.

www.gsa.gov/ebuy

eOffer/eMod

eOffer/eMod is a Web based application that allows vendors to prepare and submit their GSA Schedule offers/Schedule contract modification requests electronically. eOffer/eMod uses the latest digital authentication technology to ensure the integrity of data and to electronically sign the offer (proposal) or modification request. Digital certificates are required in order to use eOffer/eMod.

Benefits

eOffer/eMod improves the proposal or modification process by:

- ❖ Introducing an easy-to-use, progressive screen design for submitting a Schedule proposal
- ❖ Guiding users through each step of the solicitation and modification process
- ❖ Automating the submittal process by electronically transferring the completed proposal/modification request to the contracting office
- ❖ Electronically signing documents

Customer Assistance

- ❖ Technical Problems: Vendors who have technical questions, are experiencing technical problems, or have suggestions about how GSA may better serve them may contact GSA by calling (866) 472-9114 or by sending an e-mail to eooffer@gsa.gov
- ❖ Contracting Issues: Vendors who have questions relating to the solicitation should contact the representative in the solicitation or their GSA contracting official

www.gsa.gov/eoffer

Section 12: State and Local

Cooperative Purchasing Program Overview

Section 211 of the E-Government Act of 2002 authorized GSA sales of Schedule 70 IT products and services to state and local governments through the introduction of Cooperative Purchasing. Cooperative Purchasing authorizes state and local government entities to purchase from Schedule 70 Information Technology (IT) contracts and Consolidated Schedule (formerly Corporate Contracts Schedule) with associated IT Special Item Numbers (SINs). Purchases may be made by all eligible state and local entities at any time for any reason. Participation in Cooperative Purchasing is voluntary for both Schedule contractors and state and local government entities.

www.gsa.gov/cooperativepurchasing

Disaster Recovery Purchasing (Section 833) Program Overview

Section 833 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109-364) amends 40 U.S.C. 502 to authorize the Administrator of General Services to provide to state and local governments the use of GSA Multiple Award Schedules of the GSA for purchase of products and services to be used to facilitate recovery from a major disaster declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) or to facilitate recovery from terrorism or nuclear, biological, chemical or radiological attack.

State and local governments that wish to use the GSA and VA Schedules to facilitate recovery from major disasters or attacks are responsible for ensuring that only authorized representatives of their governments place orders against these schedules and that procured products and services are used only for the purposes authorized by Section 833 of Public Law 109-364.

Use of GSA Schedules by state and local governments is voluntary. Agreement of a Schedule contractor to offer recovery purchasing under the contract and acceptance of any order for recovery purchasing from a state or local government is voluntary.

State and local governments may use the GSA Schedule contracts to purchase products or services in advance of a major disaster declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) or terrorist, nuclear, biological, chemical or radiological attack. In the aftermath of emergency events, state or local governments' systems may be disrupted. Thus, use of GSA and VA Schedule contracts prior to these events to acquire products or services to be used to facilitate recovery is authorized. The state or local government will be responsible for ensuring that purchased products or services are to be used to facilitate recovery.

Additional information on the Robert T. Stafford Disaster Relief and Emergency Assistance Act is available at www.fema.gov/about/stafact.shtm.

www.gsa.gov/disasterrecovery

Cooperative Purchasing and Disaster Recovery Purchasing Information

Program Use

As a condition of using these Schedule contracts, eligible ordering activities agree to abide by all terms and conditions of the GSA Schedule contract, with the exception of those terms and conditions identified below under “Contract Formation.” Eligible ordering activities may include terms and conditions required by statute, ordinance, regulation or order to the extent that these terms and conditions do not conflict with Schedule contract terms and conditions.



Schedule contractors must decline orders within five days of receipt or the order is considered accepted.

Definitions

The General Services Administration Acquisition Manual (GSAM), Part 538.7001, Definitions, offers the following definition of state and local governments:

“The States of the United States, counties, municipalities, cities, towns, townships, tribal governments, public authorities (including public or Indian housing agencies under the United States Housing Act of 1937), school districts, colleges and other institutions of higher education, council of governments (incorporated or not), regional or interstate government entities, or any agency or instrumentality of the preceding entities (including any local educational agency or institution of higher education) and including legislative and judicial departments.”

The term does not include contractors, or grantees of state or local governments.

The COOP PURC icon  and DISAST RECOV icon  in both Schedules eLibrary and GSA Advantage!® indicates that authorized state and local government entities may purchase items from these contracts.

Payment by Credit Card

Contractors must accept any credit card used by state or local government entities to pay for purchases up to the micro-purchase threshold.

Ordering Procedures

State and local government entities are encouraged to use existing Schedule ordering procedures (refer to FAR 8.4), unless they are bound by procurement regulations under which they operate. State and local preference programs are not waived or otherwise affected by these regulations. Refer to Ordering Procedures on Page 14.

Contract Formation

Whenever a Schedule contractor accepts an order from a state or local government, a new contract is formed.

The terms and conditions of the underlying Schedule contract will be incorporated, by reference, into the new contract between the state or local government and the Schedule contractor.

The following clauses are excluded from Cooperative Purchasing orders: the disputes clause, the patent indemnity clause, and the portion of the Commercial Item Contract Terms and Conditions that specifies “compliance with laws unique to government contracts” (which applies only to contracts with the Executive Branch of the U.S. government).

Payment

The terms and conditions of a state’s prompt payment law apply to orders placed by eligible non-federal ordering activities. If the ordering activity is not subject to a state prompt payment law, the Federal Prompt Payment Act will cover the activity in the same manner as federal ordering activity.

Disputes

The federal government will not be liable for the performance or nonperformance of contracts established between Schedule contractors and state or local government entities. Disputes may be litigated between the state or local entity and the Schedule contractor in any state or federal court with jurisdiction over the parties, using the principles of federal procurement law and the Uniform Commercial Code, as applicable and appropriate.

1122 “Counterdrug” Program

Section 1122 of the Fiscal Year 1994 National Defense Authorization Act established the authority for state and local governments to purchase law enforcement equipment through federal procurement channels, provided that the equipment is used in the performance of counter drug activities. The authority for the “1122 Program” resides with the Department of Defense. The U.S. Army, as the Executive Agent of the program, has formed a steering committee consisting of representatives from the General Services Administration (GSA), the Defense Logistics Agency (DLA), and the Department of Justice (DOJ). Under the provisions of the statute, GSA is responsible for the development of a catalog, which not only explains the 1122 Program, but also delineates those products that may be procured under the program.

Each state participating in the 1122 Program designates a State Point of Contact (SPOC) to administer the state’s activities under the program, by validating the counter drug mission of each procurement request and ensuring the availability of funds.

With the approval of the Executive Agent, GSA has approved certain equipment included in GSA Schedules and the purchase of motor vehicles under the program. The SPOCs are responsible for receiving all orders from state and local law enforcement entities, and for determining that the items will be used for counter drug activities. For items under Schedules, the SPOCs will send all orders directly to the Schedule contractor, payment will also be made directly to the Schedule contractor. Orders for the purchase of vehicles (except for the Command Centers on 23 V, which can either be placed directly with the contractor or forwarded to GSA) must be forwarded by the SPOC through GSA. The 1122 Program is non-mandatory to both the SPOCs and the Schedule contractors, e.g., the contractors have the option as to whether to accept or reject an order from the SPOC.

www.gsa.gov/1122program

Section 13: GSA Schedule Listing

| Schedule Titles and Numbers | |
|-----------------------------|--|
| | Schedule Title |
| 541 | ADVERTISING & INTEGRATED MARKETING SOLUTIONS (AIMS) |
| 56 | BUILDINGS AND BUILDING MATERIALS/INDUSTRIAL SERVICES AND SUPPLIES |
| 66 III | CLINICAL ANALYZERS, LABORATORY, COST-PER-TEST |
| 71 II K | COMPREHENSIVE FURNITURE MANAGEMENT SERVICES (CFMS) |
| 00CORP | CONSOLIDATED SCHEDULE (formerly Corporate Contracts Schedule) |
| 65 II C | DENTAL EQUIPMENT AND SUPPLIES |
| 899 | ENVIRONMENTAL SERVICES |
| 03FAC | FACILITIES MAINTENANCE AND MANAGEMENT |
| 520 | FINANCIAL AND BUSINESS SOLUTIONS (FABS) |
| 72 I A | FLOOR COVERINGS |
| 73 | FOOD SERVICE, HOSPITALITY, CLEANING EQUIPMENT AND SUPPLIES, CHEMICALS AND SERVICES |
| 72 II | FURNISHINGS |
| 70 | GENERAL PURPOSE COMMERCIAL INFORMATION TECHNOLOGY EQUIPMENT, SOFTWARE AND SERVICES |
| 51 V | HARDWARE SUPERSTORE |
| 71 II | HOUSEHOLD AND QUARTERS FURNITURE |
| 738 X | HUMAN RESOURCES & EQUAL EMPLOYMENT OPPORTUNITY SERVICES |
| 65 VII | INVITRO DIAGNOSTICS, REAGENTS, TEST KITS AND TEST SETS |
| 738 II | LANGUAGE SERVICES |
| 751 | LEASING OF AUTOMOBILES AND LIGHT TRUCKS |
| 874 V | LOGISTICS WORLDWIDE (LOGWORLD) |
| 65 II A | MEDICAL EQUIPMENT AND SUPPLIES |
| 621 II | MEDICAL LABORATORY TESTING AND ANALYSIS SERVICES |
| 71 III E | MISCELLANEOUS FURNITURE |
| 874 | MISSION ORIENTED BUSINESS INTEGRATED SERVICES (MOBIS) |
| 00JWOD | NIB/NISH PRODUCTS |
| 71 I | OFFICE FURNITURE |
| 75 | OFFICE PRODUCTS/SUPPLIES AND SERVICES AND NEW PRODUCTS/TECHNOLOGY |
| 71 II H | PACKAGED FURNITURE |
| 65 II F | PATIENT MOBILITY DEVICES |
| 65 I B | PHARMACEUTICALS AND DRUGS |
| 67 | PHOTOGRAPHIC EQUIPMENT — CAMERAS, PHOTOGRAPHIC PRINTERS AND RELATED SUPPLIES & SERVICES (DIGITAL AND FILM-BASED) |
| 621 I | PROFESSIONAL AND ALLIED HEALTHCARE STAFFING SERVICES |
| 58 I | PROFESSIONAL AUDIO/VIDEO, TELECOMMUNICATIONS AND SECURITY SOLUTIONS |
| 871 | PROFESSIONAL ENGINEERING SERVICES |
| 76 | PUBLICATION MEDIA |
| 66 | SCIENTIFIC EQUIPMENT AND SERVICES |
| 81 I B | SHIPPING, PACKAGING AND PACKING SUPPLIES |

| | |
|---------------|---|
| 71 III | SPECIAL USE FURNITURE |
| 78 | SPORTS, PROMOTIONAL, OUTDOOR, RECREATION, TROPHIES AND SIGNS (SPORTS) |
| 736 | TEMPORARY ADMINISTRATIVE AND PROFESSIONAL STAFFING (TAPS) |
| 36 | THE OFFICE, IMAGING AND DOCUMENT SOLUTION |
| 26 I | TIRES, PNEUMATIC (NEW), FOR PASSENGER, LIGHT TRUCK, MEDIUM TRUCK AND BUS AND RETREAD SERVICES |
| 84 | TOTAL SOLUTIONS FOR LAW ENFORCEMENT, SECURITY, FACILITIES MANAGEMENT, FIRE, RESCUE, CLOTHING, MARINE CRAFT AND EMERGENCY/ DISASTER RESPONSE |
| 69 | TRAINING AIDS & DEVICES, INSTRUCTOR-LED TRAINING; COURSE DEVELOPMENT; TEST ADMINISTRATION |
| 48 | TRANSPORTATION, DELIVERY AND RELOCATION SOLUTIONS |
| 599 | TRAVEL SERVICES SOLUTIONS |
| 23 V | VEHICULAR MULTIPLE AWARD SCHEDULE (VMAS) |
| 65 V A | X-RAY EQUIPMENT AND SUPPLIES |

Consolidated Schedule (formerly Corporate Contracts)

The Consolidated Schedule adds value by simultaneously reducing administrative costs, shortening lead times and ensuring quality services and related supplies. This Schedule covers a broad spectrum of services for various functional domains, including engineering, information technology, logistics and management/organizational business improvement services.

This Schedule is a tool for federal agencies to issue task orders to a single company to perform a requirement that includes services falling within the scope of several individual Schedules.

The Consolidated Schedule:

- ❖ Improves purchase decision-making
- ❖ Reduces risk by acting as a single entry
- ❖ Allows leveraging through volume buying

This contracting tool also provides ordering activities with the ability to control and manage their entire requirement. Using the Consolidated Schedule is an ideal solution to fulfill an agency's professional services needs.

www.gsa.gov/consolidated

Section 14: Customer Assistance

Ordering activity customers needing additional information or assistance on the various services, supplies and programs may contact:

National Customer Service Center (NCSC)

Customers are encouraged to call GSA's National Customer Service Center (NCSC) at (800) 488-3111 or DSN 465-1416 between 7 a.m. to 6 p.m. (Central Time) with general or specific questions about GSA. The NCSC's customer service representatives are knowledgeable about GSA's business lines and their associated products and services and will direct you to a source that will best address your needs. The NCSC can also help verify your order's status, track shipments, resolve order discrepancies or deficiencies, and provide information on merchandise returns and exchanges, as well as address billing inquiries, merchandise quality concerns, and current price quotes.

Customer Assistance

Telephone: (800) 488-3111

E-mail: NCSCcustomer.service@gsa.gov

www.gsa.gov/ncsc

Problem Resolution

Report a problem with any order by using eResolve, an online customer service solution. eResolve allows direct reporting of problems with a requisition or GSA Global Supply order shipment. Thus, correcting problems such as damage, short/over, wrong item, quality, tracking shipments and merchandise returns is quick and easy.

www.gsa.gov/eresolve

Centralized Mailing List Service (CMLS)

For your convenience, GSA offers a Centralized Mailing List Service that maintains copies of various GSA publications, including product catalogs, Schedules, fact sheets and more. Just let us know which publications you're interested in and we will mail them to you free of charge.

Customer Assistance

Telephone: (817) 334-5215

E-mail: cmls@gsa.gov

www.gsa.gov/cmls

Headquarters FAS Business Portfolio Contacts

Assisted Acquisition Services (AAS)

GSA's Office of Assisted Acquisition Services provides technical, acquisition, financial, and project management services to help federal customers purchase and deploy information technology and professional services solutions.

Customer Assistance

Telephone: (703) 306-6633

www.gsa.gov/aas

General Supplies and Services (GSS)

GSA's Office of General Supplies and Services offers a wide selection of quality products ranging from construction equipment to furniture, information technology and office supplies. The portfolio consists of the following three business lines: Acquisition Operations, Supply Operations and Personal Property Management.

Customer Assistance

Telephone: (703) 605-5515

www.gsa.gov/gss

Information Technology Services (ITS)

The Office of Integrated Technology Services integrates GSA's information technology and telecommunications initiatives under a single business portfolio.

www.gsa.gov/its

Center for IT Schedule Program

Telephone: (703) 605-2700

www.gsa.gov/itcenter

Network Services

www.gsa.gov/network

Travel, Motor Vehicle and Card Services (TMVCS)

GSA's Office of Travel, Motor Vehicle, Card Services provides compliant, responsive and cost-effective services to aid federal customers in shipping, hauling and transporting the people and products essential to doing the business of government.

Customer Assistance

GSA Automotive

Telephone: (703) 605-2277 (CARS)

E-mail: vehicle.buying@gsa.gov

www.gsa.gov/automotive

GSA Fleet

E-mail: gsa.fleet@gsa.gov

www.gsa.gov/gsafleet

Travel and Transportation
Telephone: (703) 605-5618
E-mail: transportation.program@gsa.gov
www.gsa.gov/travel
www.gsa.gov/transportation

GSA SmartPay® Card Services
Telephone: (703) 605-2825
www.gsa.gov/smartpay

eTravel
Telephone: (703) 872-8535
E-mail: eGovTravel@gsa.gov
www.gsa.gov/etravel

Acquisition Centers

Center for Facilities Maintenance and Hardware (CFMH)

The GSA Center for Facilities Maintenance and Hardware provides a variety of quality products such as hardware, tools, appliances, lawn and garden equipment, metalworking and woodworking machinery, paints, sealants and adhesives to government customers around the world. These products can be purchased, leased or rented to provide a short-term or long-term solution to the federal community. The CFMH also provides facilities maintenance, facilities management, and energy management services providing a total solution for maintaining or managing federal buildings while emphasizing energy savings.

Customer Assistance

Telephone: (816) 926-6760
E-mail: hssmarketing@gsa.gov
www.gsa.gov/cfmh

Greater Southwest Acquisition Center

GSA's Greater Southwest Acquisition Center provides a variety of diverse products and services, including power distribution equipment, food service equipment, janitorial and cleaning supplies, law enforcement and security equipment, forklifts and prefabricated buildings.

Customer Assistance

Telephone: (817) 574-2660
E-mail: marketing.gps@gsa.gov
www.gsa.gov/generalproducts

IT Acquisition Center

GSA's IT Acquisition Center is dedicated to providing government managers with smarter solutions to meet today's challenges of multiple priorities, increased demands and diminishing resources. GSA has established vital information technology (IT) products and services contracts with industry leaders, which can be easily accessed through the Multiple Award Schedules. Schedule 70 provides contracts with firms of all sizes, as well as nationally recognized leaders in their fields.

Customer Assistance

Telephone: (703) 605-9300

E-mail: IT.Center@gsa.gov

www.gsa.gov/itcenter

Management Services Center (MSC)

The Management Services Center manages Multiple Award Schedule contracts focused on professional services related to business improvement, language interpretation and translation, environmental issues, logistics, engineering and consolidated services. The Management Services Center has contracted with small businesses, as well as nationally recognized leaders in their fields.

Customer Assistance

Telephone: (800) 241-7246

E-mail: mgmt.services@gsa.gov

www.gsa.gov/mgmtservices

National Furniture Center

GSA's National Furniture Center provides industry knowledge and contracting expertise for furniture and furnishings products and services, mail management, audio/visual, telecommunications and security solutions, as well as sports and recreation equipment, trophies and signs.

Customer Assistance

Telephone: (703) 605-9300

www.gsa.gov/furniture

Office Supplies and Administrative Services Center (OSAS)

GSA's Office Supplies and Administrative Services Center supports civilian and military agencies with products and services to meet their office needs. In addition to providing a wide range of office supplies, the office offers training, human resources and Equal Employment Opportunities (EEO) services.

Customer Assistance

Telephone: (212) 264-0868

E-mail: smartshop@gsa.gov

www.gsa.gov/osas

Center for Services Acquisition

The Center for Services Acquisition provides professional services in the areas of finance and business to federal agencies, as well as Emergency Contracting and Strategic Sourcing Initiatives. GSA's procurement professionals design and implement Schedules that provide federal customers with direct access to industry experts. In addition to negotiating contracts under the Schedules program, the Center for Services Acquisition oversees the government's charge card program, GSA SmartPay®. We establish contracts with small business and 8(a) firms, as well as nationally recognized leaders in their fields, to help customers achieve their goals.

Customer Assistance

Telephone: (703) 605-2774

E-mail: fss.services@gsa.gov

www.gsa.gov/servicesacquisitioncenter

Governmentwide Acquisition Contract (GWAC) Centers

GSA supports three GWAC centers located throughout the United States.

www.gsa.gov/gwacs

Enterprise GWAC Center

The Enterprise GWAC Center offers efficient, responsive and professional support for all Information Technology (IT) acquisition needs by awarding and managing contracts that address the entire spectrum of IT, such as ANSWER (Applications' n Support for Widely-diverse End User Requirements), ACES (Access Certificates for Electronic Services), Alliant, ITOP II (IT Omnibus Procurement II), Millennia and Virtual Data Center Services.

Customer Assistance

Telephone: (877) 534-2208

E-mail: it.center@gsa.gov

www.gsa.gov/egc

Small Business GWAC Center

The Small Business GWAC Center manages a diversified portfolio of 8(a), Historically Underutilized Business Zone (HUBZone) and Service-Disabled Veteran-Owned (SDVO) small business set-aside contracts for information technology solutions. These contracts are pre-competed, multiple award contracts with high-quality, small business industry partners. These small business firms specialize in providing innovative, information technology solutions to federal agencies worldwide. The Small Business GWAC Center manages three major small business set-aside contract vehicles: 8(a) STARS, HUBZone and VETS GWACs. In addition, efforts are underway to award a new GWAC (the Alliant Small Business GWAC).

Customer Assistance

Telephone: (877) 327-8732

E-mail: 8a@gsa.gov

www.gsa.gov/sbgwac

Section 15: Additional GSA Acquisition Solutions

GSA Global Supply

GSA Global Supply provides easy and flexible requisition-based ordering for office supplies, computer products, tools and safety and cleaning products.

To view all of the product offerings with the most current pricing, visit our ordering site at www.GSAGlobalsupply.gsa.gov or contact Global Supply's knowledgeable customer service representatives for more information at (800) 525-8027.



NUTS AND BOLTS TIP

FAR 8.4 is not applicable to orders placed through GSA Global Supply. Customers do not need to solicit multiple bids because GSA Global Supply items have already been competed.

Benefits of Ordering Through GSA Global Supply:

GSA Global Supply provides quality products backed by our service guarantees:

- ❖ Global delivery
- ❖ Product breadth and depth
- ❖ AbilityOne guaranteed products
- ❖ Easy compliance with the FAR
- ❖ Payment using government purchase card or AAC/DoDAAC
- ❖ Government-to-government transactions
- ❖ Requisition based ordering with no need for comparison shopping
- ❖ No spending limits

After the Order

To request assistance or to resolve any billing or shipping questions, choose the “customer service” option after dialing (800) 525-8027, or visit www.gsa.gov/eresolve.

Catalogs

Customers may order a GSA Global Supply catalog by visiting www.gsa.gov/cmls, calling (817) 334-5215 or e-mailing cmls@gsa.gov.

Customer Assistance

Telephone: (800) 527-8027

Option 1 – AAC or credit card orders

Option 2 – Customer support issues

Option 3 – FEDSTRIP/MILSTRIP orders

E-mail: cmls@gsa.gov

www.GSAGlobalsupply.gsa.gov

Governmentwide Acquisition Contracts (GWACs)

Hardware, software and services may be purchased through the Governmentwide Acquisition Contracts (GWACs) as part of a total technology solution. Task orders placed against GWACs may be customized to meet the full range of IT services solutions including, but not limited to service and product integration, systems integration, systems operation and management, software engineering management, communications, information systems engineering, information system security services, network and management telecommunications, and Web-enabled solutions.

www.gsa.gov/gwacs

8(a) STARS (Streamlined Technology Acquisition Resources for Services) provides a full range of IT solutions — including application development, computer facilities management services and information assurance — through small disadvantaged 8(a) firms.

As an 8(a) set-aside, this contract vehicle provides small businesses historically left out of the procurement process with a chance to compete in the federal marketplace. GSA customers benefit by having access to a portfolio of more than 400 award-winning industry partners distributed across eight areas of expertise. Federal agencies also receive 8(a) and other small business credits toward their procurement preference goals through the use of these contracts.

www.gsa.gov/8astars

Alliant (PENDING AWARD) will provide the greatest amount of flexibility possible to efficiently and effectively support the federal government's needs in its daily operations, its protection of infrastructure, the fight against terrorism and the development and marketing of emerging technologies. Contracts awarded under Alliant will have 10-year contract periods (five-year base and one five-year option) to provide integrated IT solutions.

www.gsa.gov/alliant

Alliant SB (PENDING AWARD), a small business set-aside GWAC, is designed to provide worldwide information technology solutions to federal agencies, while strengthening federal contracting opportunities for small business concerns. Alliant SB will assist agencies in reaching their procurement preference goals, while providing small business concerns with opportunities to develop their businesses before moving into unrestricted acquisition environments.

www.gsa.gov/sballiant

ANSWER (Applications 'n Support for Widely-Diverse End User Requirements) delivers best value and innovation for such diverse projects as telemedicine, war gaming, agriculture, homeland security, nuclear energy and social security systems. ANSWER constantly updates technology offerings with a technical refreshment provision.

Features of the ANSWER GWAC include seven geographical rate areas with ceiling prices reflecting locations; 40 hours of training for every contractor full-time equivalent; and one group manager for every 35 contractor employees.

www.gsa.gov/answer

COMMITTS NexGen is a Government-Wide Acquisition Contract (GWAC) designed to offer information technology (IT) solutions to Federal customers. COMMITTS NexGen is designed to deliver top-quality, performance-based IT services and solutions that meet government mission requirements using a streamlined acquisition methodology. COMMITTS NexGen provides customers with competitive IT solutions from a pool of exceptional small businesses including disadvantaged, 8(a), women-owned, veteran-owned, service-disabled veteran-owned, and HUBZone businesses.

www.gsa.gov/commits

Millennia fulfills the demand for large system integration and development projects by providing IT support contracts in the areas of software engineering, communications and systems integration.

www.gsa.gov/millenia

Millennia Lite is strategically segmented into four functional areas based on the life cycle of information technology: IT capital planning, studies and assessments; high-end information technology services; mission support services; and legacy systems migration and new enterprise systems development.

Typical projects under the Millennia Lite GWAC include, but are not limited to: biometrics; nanotechnology; capital planning and investment control; information assurance and security; critical infrastructure protection; knowledge management; systems engineering; application development; software development, Computer Aided Design, Engineering and Management (CAD, CAE, and CAM); and business and systems analysis.

www.gsa.gov/millennialite

VETS (Veterans Technology Services), a service-disabled veteran-owned small business set-aside GWAC, is designed to provide worldwide information technology solutions to federal agencies, while strengthening federal contracting opportunities for service-disabled veteran-owned small business concerns. The VETS GWAC will assist agencies in meeting their 3 percent service-disabled veteran-owned small business goals by providing pre-qualified industry partners with a single easy-to-use contract vehicle. Service-disabled veteran-owned small businesses will, in turn, be provided with opportunities to compete amongst a smaller group of contract holders, allowing self-marketing opportunities and a chance to develop their businesses before moving into larger acquisition environments.

www.gsa.gov/vetsgwac

Network Services Programs

GSA's Network Services help customers acquire telecommunications and network services. They provide a wide range of domestic and international network solutions at competitive prices while offering superior customer service. With pre-competed, full service contracts that are in-place and ready to use, network Services deliver the best value and innovation to meet your mission requirements and operational needs. These solutions include voice, video, and data services in both fixed and mobile environments. In addition, they offer a full range of managed network solutions as well as specific design and engineering services. This network is also responsible for managing current programs including Networx, FTS2001, metropolitan Area Acquisition, CONNECTIONS, and SATCOM-II contracts.

www.gsa.gov/network

Awarded in January 2003, **CONNECTIONS** is an eight-year (3 base years + 5 one-year options) governmentwide, multiple award, and indefinite-delivery indefinite-quantity contracts. It's a one-stop shop for any office building, campus or base environment to deliver any level of demand for equipment (e.g. Routers, Switches), support services (e.g. Project Managers, Web Architects), or customized solutions (e.g. Systems Integration, Operations Support). More than half the awardees are small businesses.

www.gsa.gov/connections

Federal Relay Service (FRS) is a federal government service, which enables federal employees who are deaf, hard-of-hearing, deaf/blind, or have speech disabilities equal communication access. Using FRS, federal employees may conduct official duties. The FRS also allows the general public to conduct business with the federal government and its agencies. Calls are relayed using specially trained Communications Assistants (CA). The CA simply acts as a transparent conduit for the transmittal of information. The FRS is accessible domestically (50 states as well as Puerto Rico, the Virgin Islands, Guam, and the District of Columbia) 24 hours a day, 7 days a week, 365 days a year (including federal holidays). There are no restrictions on the number, length, or type of calls.

www.gsa.gov/frs

Networx Program provides comprehensive, best value telecommunications and networking services and technical solutions to all federal agencies. The Networx program serves as the primary replacement for the expiring FTS2001 and FTS2001 Crossover contracts and federal wireless contracts. Networx is designed to support a governmentwide enterprise architecture. It provides a framework that supports cross-agency collaboration, transformation, and governmentwide technology improvement. Networx maximizes the use of government resources by providing a common procurement infrastructure and a performance based approach that embraces commercial technical and interface standards. Networx requires that service providers offer the most current security features and services to ensure a secure government operating environment. The Networx program consists of two acquisitions — Networx Universal and Networx Enterprise. Both Networx Universal and Networx Enterprise are broadly scoped acquisitions with a comprehensive suite of services. Networx includes current services as well as those that anticipate the future needs of customers.

www.gsa.gov/networx

Satellite Services-II (SATCOM-II) provides an expanded range of end-to-end satellite solutions for government agencies. SATCOM-II offers agency customers unique opportunities — a special small business set-aside component for satellite professional support services and an innovative way to stay ahead of the technology curve. The set-aside helps agencies better involve America's outstanding small businesses in serving citizens, and a new modification process keeps SATCOM-II current with new technologies and services as they become commercially available. SATCOM-II offers competitive pricing throughout the life of the contract, as well as flexible ordering and billing. SATCOM-II contracts are five-year multiple award IDIQ Fixed Price contracts.

www.gsa.gov/satcom-II



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